TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1950

No. 384

STANDARD OIL COMPANY, APPELLANT,

vs.

THE STATE OF NEW JERSEY, BY THEODORE D. PARSONS, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY

FILED OCTOBER 25, 1950.

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JUDD & DETWEILER (INC.), PRINTERS, WASHINGTON, D. C., DEC. 21, 1950.

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APPENDIX.

Petition.

(Filed July 27, 1948.)

The Petitioner, the State of New Jersey, brings these proceedings under the provisions of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155, P. 713 and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-32, inclusive, and says:

(1) The Attorney General of New Jersey has been informed that the defendant, Standard Oil Company, has in its possession, certain personal property which has escheated under the provisions of the above stated Act, to the State of New Jersey.

(2) That he has, by reason of such information appointed one, Irving Kutcher, as escheator and Emerson Richards Esq., as his Attorney to prosecute this action.

WHEREFORE, your Petitioner respectfully shows:

I. Standard Oil Company, the defendant herein is a body corporate organized under the Laws of the State of New Jersey, and having its principal place of business in the State of New Jersey, with its registered office at 117 May Street, Flemington, New Jersey.

II. That defendant has in its custody or possession certain personal property which has escheated to the State of New Jersey. Such personal property consists in the main of unclaimed cash dividends on its own stocks, stock dividends, stocks and bonds and interest on such bonds, debentures and other escheatable personal property.

Petition.

III. That as to some of the aforesaid personal property, the owner thereof died intestate without heirs or known kindred capable of inheriting the same and without leaving a surviving spouse, whereby under the provisions of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713, and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive and which said personal property did escheat to the State of New Jersey.

IV. That as to some of the aforesaid personal property the owner of, or beneficial owner of, or person entitled to the same has been and remains unknown for the period of fourteen successive years whereby under the provisions of an Act, providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713, and the amendments and supplements thereto, as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive and which said personal property did escheat to the State of New Jersey.

V. That as to some of the aforesaid personal property, such personal property has been and remains unclaimed for the period of fourteen successive years whereby under the provisions of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713, and the amendments and supplements thereto, as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive, and which said personal property did escheat to the State of New Jersey.

VI. That as to some of the aforesaid personal property, the whereabouts of such owner, bene-

ficial owner, or person entitled to such personal property has been and remains unknown for the period of fourteen successive years whereby under the provisions of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713, and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive, and which said personal property did escheat to the State of New Jersey.

(3) Part of the escheatable personal property now in custody or possession of the defendant consists of unpaid and unclaimed dividends between the years 1882 and January 1st, 1932 and which has remained in the custody or possession of the defendant because the owner, beneficial owner, or person entitled to the said personal property, has been and remains unknown for a period of fourteen successive years prior to the commencement of this suit, or that the whereabouts of such owner, beneficial owner or person has remained unknown as aforesaid, or that the owner died intestate without heirs or known kindred capable of inheriting the same and without leaving any surviving spouse, or that such personal property has been and remains unclaimed for the period of fourteen successive years.

(4) The approximate amount of such personal property in the form of dividends, stock dividends, other stock dividends, unclaimed cash dividends, unclaimed stock dividends, and stock or bonds escheatable as aforesaid and now in the custody or possession of the defendant is as follows: Dividends from 1882 to either the date of the filing of this petition in the case of persons having died intestate, or between the years 1882 and January

1st, 1932 in the case of persons who have remained unknown or whose whereabouts are unknown, or where such personal property remains unclaimed for fourteen successive years, is in the sum of $240,000 and upward; stock dividends in the sum of $60,000.00 and upward; stocks and bonds, in the sum of $80,000.00.

(5) The defendant who is in possession and custody of the aforesaid personal property has within its custody and control certain information such as the names and last known addresses of some of the persons whose personal property now is in the custody of the defendant and is escheatable to the State of New Jersey.

(6) The defendant also has other escheatable personal property the exact nature of which is not known to your Petitioner but which is escheatable to the State of New Jersey.

WHEREFORE, your Petitioner prays that this honorable court will take jurisdiction, the premises considered, and

(A) Shall by its order within a time therein specified, direct the defendant to fully disclose the total amount of personal property now held by it and in its custody and which is escheatable to the State of New Jersey, together with all information that it may have respecting such persons whose personal property has escheated as aforesaid, to the State of New Jersey, under provisions of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155, P. 713 and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-

32 inclusive and which said personal property did escheat to the State of New Jersey.

(B) That by its further order, shall also set a time and place for a hearing as to whether or not any or all of the aforesaid personal property shall escheat to the State of New Jersey; and

(C) Shall at the proper time, provided by its order, that a notice containing a summary of the order designating the time and place of hearing as approved by the Court, shall be published in a manner directed by the Court, and shall also be published once a week for three successive weeks in a newspaper of general circulation, designated by the Court, circulated and published in the County in which the major part of such personal property shall be situated, and which notice shall direct that all persons who may claim to be entitled to such personal property or any part thereof, shall present his claim in writing at least five days prior to the date fixed for the aforesaid hearing and that if any such claims be filed with the Court, then to proceed as provided in an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713 and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive and which said personal property did escheat to the State of New Jersey.

(D) Whereupon, the Court having heard all of the parties interested and having determined the rights of the claimants thereto responding and having heard the evidence thereon, shall thereupon enter a decree escheating to the State of New Jersey, such of the personal property now

in the custody or possession of the defendant as the Court shall determine, has escheated to the State of New Jersey by reason of an Act providing for the escheat of certain unclaimed personal property L. 1946, see 155 P. 713, and the amendments and supplements thereto as contained in N. J. S. A. 2:53-15 to 2:53-32 inclusive and which said personal property did escheat to the State of New Jersey.

(E) Which decree shall likewise provide for the distribution of the escheated property, the payment of the escheated property to the Treasurer of the State of New Jersey, after having deducted therefrom the escheater's fees and the fees, expenses and costs of counsel, and

(F) The Petitioner prays for such further relief as may be just or requisite in the circumstances.

Your Petitioner will ever pray, etc.,

THE STATE OF NEW JERSEY, by Walter D. Van Riper, Attorney General.

EMERSON RICHARDS,
Attorney specially appointed by the Attorney General to prosecute the above Petition.

Order.

(Filed July 27, 1948.)

It is on this 27th day July 1948, upon consideration of the Petition presented and filed in the cause and upon motion of Emerson Richards, Esq., Special Deputy Attorney General, attorney for Petitioner,

Ordered, that the defendant be required to answer said Petition within 20 days after service thereof upon the defendant; and

It is Further Ordered, that the defendant retain in its custody or possession such escheatable personal property as it now has in its custody or possession until the further order of this Court, and

It is Further Ordered, that the defendant disclose to the Petitioner, in its answer, such information regarding the escheatable personal property in its custody or possession as is pertinent to the prosecution of this cause as will cause a speedy determination of the cause, and

It is Further Ordered, that a copy of the Petition and of this order to be marked a true copy by the solicitor for the Petitioner, be served upon the registered agent for the defendant, at the registered offices of the defendant in the state of New Jersey.

Respectfully advised,

Wilfred H. Jayne,
V. C.

A. Dayton Oliphant,
C.

Answer.

(Filed August 24, 1948.)

The defendant, answering the petition in the above cause, says:

I. It admits it is a body corporate organized under the laws of the State of New Jersey and has its registered office at 117 Main Street, Flemington, New Jersey. It alleges that it transacts no business in New Jersey unless the holding of the annual stockholders' meeting in this State could be so considered, which defendant denies. It also alleges that it owns no property in New Jersey. Except as above admitted, Paragraph I is denied.

II. It admits that its books of account show that certain intangible personal property, including certain unclaimed cash dividends on its own stock and certain unpresented coupons on its debentures, which were payable by it in the year 1932 or prior thereto, have not been claimed by the persons entitled thereto. It admits that the record owners of certain shares of its own stocks have not been heard from by it since 1932 and that, since 1932, it has no certain knowledge as to the present address of such record owners. It further admits that certain other alleged claims against it, as shown on the schedules hereto annexed, have not been paid since 1932 and that it has no certain knowledge as to the present address of such alleged claimants. The above mentioned items are listed on Schedule A hereto annexed.

Except as above admitted, it denies Paragraph II.

Answer.

III. It is without knowledge or information sufficient to form a belief with respect to whether any former owner of the unclaimed choses in action set forth in Schedule A died intestate without heirs or known kindred capable of inheriting the same and without leaving a surviving spouse. It denies the remainder of paragraph III.

IV. It admits that former owners of, or former beneficial owners of, or persons formerly entitled to some of the unclaimed choses in action set forth in Schedule A may have remained unknown for a period of fourteen successive years, but is without knowledge or information sufficient to form a belief with respect thereto. It denies the remainder of Paragraph IV.

V. It admits that some of the choses in action set forth in Schedule A have remained unclaimed for a period of fourteen successive years. Except as above admitted, Paragraph V is denied.

VI. It admits that the whereabouts of former owners, or former beneficial owners of, or persons formerly entitled to some of the choses in action set forth in Schedule A has been and has remained unknown to it for a period of fourteen successive years. Except as above admitted, Paragraph VI is denied.

VI. (3) It admits that the unclaimed and unpaid dividends set forth in Schedule A are still carried on its books as such, either because the former owner thereof, former beneficial owner thereof, or person formerly entitled thereto, has been and has remained unknown to it for a period of fourteen successive years prior to the commencement of this proceeding, or because the

whereabouts of such former owner thereof, former beneficial owner thereof, or person formerly entitled thereto, has remained unknown to it for a period of fourteen successive years prior to the commencement of this proceeding, or because such unpaid dividends have been and have remained unclaimed for a period of fourteen successive years prior to the commencement of this proceeding. Except as above admitted, Paragraph VI (3) is denied.

VI. (4) It denies Paragraph VI (4). It alleges that all claims between the years 1882 and 1932 which remain unpaid are set forth in Schedule A except that said schedule does not include unpaid dividends, if any, and unpaid wages, if any, which arose between 1882 and 1900. It alleges that it was advised by the petitioner that its investigation as to unpaid dividends and unpaid wages should not extend to an earlier date than the year 1900; that it had no knowledge until the filing of the petition that it would be required to make the investigation of such claims for a period prior to 1900; that it has not been possible to make such investigation since the filing of the petition.

VI. (5) It admits that it has in its possession the information shown in Schedule A with respect to the names and last known addresses of persons formerly entitled to the claims set forth in such schedule to the extent that such last known addresses are stated therein. It has no knowledge as to whether or not it has in its possession information as to unclaimed dividends and unclaimed wages which arose prior to 1900. It alleges that where the names of the claimants are not shown in Schedule A it has not, as yet, been able to secure such names from its records. Ex-

cept as above admitted, Paragraph VI (5) is denied.

VI. (6) It denies Paragraph VI (6).

VII. Attached hereto and made a part hereof and designated "Schedule A" is a statement taken from defendant's books of account or from the books of its disbursing agent of the information in defendant's possession or in the possession of its disbursing agent regarding the unpaid claims against defendant which arose against it prior to January 1, 1934, except that, as to unpaid dividends and unpaid wages, such claims relate to the period between 1900 and 1934, together with all other pertinent information with respect thereto which the defendant has been able to secure to date.

VIII. This defendant denies that the State of New Jersey has any valid claim against it under R. S. 2:53-15 to 2:53-32, or otherwise, with respect to any of said claims. This defendant alleges that all of the said claims or choses in action set forth in Schedule A and any and all causes of action with relation thereto accrued and arose against defendant more than six years prior to the date of the enactment of R. S. 2:53-15 to 2:53-32 as well as more than six years prior to the institution of these proceedings.

IX. Defendant further alleges that, at the time of the enactment of the statute above mentioned, any right of action based on said claims or choses in action had been barred by the Statute of Limitations in such causes made and provided (R. S. 2:24-1), and that such claims and choses in action had been legally extinguished and had become completely unenforceable against defendant.

Answer.

X. Defendant further alleges that, at the time of the enactment of said statutory provision, it had a vested right in the defense of the Statute of Limitations to all of such claims which the Legislature had no power to divest either in the interest of the claimants or of the State of New Jersey.

XI. Defendant alleges that R. S. 2:53-15 to 2:53-30, if construed so as to provide for the escheat to the State of any of such claims, is unconstitutional in that, at the time of its enactment, it violated Article I, Paragraph 1, of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution, which said paragraphs are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State, and also violated the Fourteenth Amendment of the Constitution of the United States in that it violates the right of the defendant to acquire, possess and protect property and in that it takes the property of this defendant for the public use of the State of New Jersey without compensation and in that it deprives this defendant of its property without due process of law.

XII. This defendant alleges that many, if not all, of the persons named in Schedule A, to whom such claims were at one time payable, were never citizens or residents of the State of New Jersey and that the claims of said persons never had a situs in the State of New Jersey for the purpose of escheat; that said claims, if subject to escheat in any jurisdiction, would be subject to escheat in the State of the last known domicile of such persons; that this court is without jurisdiction to escheat such claims to the State of New Jersey, and that a decree of this court, attempting to enforce such escheat, would not protect this defend-

ant from the claims of such other states in the event that such claims should be asserted in the State of New York where this defendant is suable or in any other jurisdiction where this defendant may be suable.

XIII. That, with respect to the shares of stock of this defendant, the respective last known domiciles of the record owners of said shares of stock was outside the State of New Jersey and, so far as this defendant is informed and believes, neither the record owners of said stock nor any other person who may now own the same was ever domiciled or ever resided in the State of New Jersey and that the State of New Jersey is without jurisdiction or power to escheat said shares of stock; that so to do would deprive the owners of said shares of stock; that so to do would deprive the owners of said shares of stock of their property without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States and Paragraphs 1 and 16 of Article I of the Constitution of 1844 of this State, which provisions are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State, and would expose this defendant to liability to the true owners of said shares of stock, which liability might be asserted in the State of New York where this defendant is suable or would expose this defendant to escheat proceedings in the States of the last known domicile of the owners of said stock.

This defendant prays that the petition be dismissed.

STRYKER, TAMS & HORNER,
Solicitors of Defendant,
Standard Oil Company.

JOSIAH STRYKER,
of Counsel.

Schedule A.

Showing Claims Against the Defendant Company Which Arose Prior to January 1, 1934 With Respect to Which the Persons Who Were Entitled Thereto Prior to the Bar of the Statute of Limitations, or the Present Residence of Such Persons, is Unknown to the Company, and Has Been so Unknown for Fourteen Years, to the Extent Shown by the Investigation of the Company.

1. DIVIDENDS ON COMMON STOCK

Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends
Frank R. Acosta	c/o The First National Bank of El Dorado, Arkansas	9/10/28	$ 4.50
August Adrian	c/o Y. M. C. A., Hanson Place, Brooklyn, N. Y.	8/26/28	.75
Peder Anderson	c/o Standard Shipping Co., 26 Broadway, New York, N. Y.	11/ 8/29	8.50
George D. Anthony	401 Pateong Ave., Linwood, N. J.	11/11/32	2.00
Sidney R. Arnold	107 Laburnum Grove, Portsmouth, England	5/31/33	.50
Emmett C. Barnes	Uncas, Oklahoma	6/21/27	6.38
John E. Baugh	c/o H. T. Austermell, P. O. Box 1107, Shreveport, La.	2/28/28	.75
Pierce A. Baugh	c/o Franklin Fire Insurance Co., 423 Walnut St., Philadelphia, Pa.	8/ 9/28	1.88
Miss Anna Baum	1429 Prospect Ave., Bronx, N. Y.	6/ 5/30	5.00
A. Irving Beach	Peonville, N. Y.	12/19/29	7.50
James Bears	Boca Grande, Fla.	10/ 3/30	5.00
Lacey H. Beauchamp	Box 40, West Morland, California	9/ 8/30	4.50
Miss Frances E. Beaudette	86 Woodside Terr., Springfield, Mass.	Not transferred of record	7.47
Nathan Becker	2167 Crotona Ave., Bronx, N. Y.	3/26/29	9.38
David L. Bellot	Box 997, Seminole, Oklahoma	7/ 7/31	3.50
Roscoe E. Belt	Box 981, El Dorado, Oklahoma	12/23/29	1.88
Albert J. Belveal	P. O. Box 623, Cushing, Oklahoma	4/ 4/30	2.50
William Beyer	c/o Standard Shipping Co., 26 Broadway, New York, N. Y.	2/ 5/30	16.50
Mrs. May Bickner	R. F. D. No. 2, Box 73C, Albuquerque, N. M.	7/ 7/27	5.63
Miss Sarah Ford	1662 E. 86th St., Cleveland, O.	7/18/33	5.00

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends	
Adolph C. Blanco	43 West 47th St., Bayonne, N. J.	8/13/29	$ 8.50	
William G. Blauvelt	195 Broadway, New York City, N. Y.	8/28/29	7.50	
Mrs. Christina Bolton	106 Bogard St., Charleston, S. C.	Not transferred of record	15.27	
Jessie I. Boteler	c/o Laurie Bowman, Box 997, Seminole, Oklahoma	5/19/31	3.50	10
Arnold J. Bourgeois	329 St. Louis Street, Baton Rouge, Lousiana	7/10/29	.50	
Bert Brandon	c/o H. R. Cook, Box 997, Seminole, Oklahoma	8/31/32	.50	
Mrs. Eleanor A. Brown	515 West 111th St., New York, N. Y.	2/ 1/26	2.50	
Lurtie L. Bucy	c/o Federal National Bank, Shawnee, Oklahoma	7/24/30	9.00	
Abraham L. Burgess	c/o Seminole Machine Shop, R. R. No. 1, Box 8, Seminole, Oklahoma	5/26/31	1.00	
John Burke	Dubuque, Iowa	12/11/23	3.50	20
John A. Burns	73 East Lane Ave., Columbus, O.	6/ 4/30	7.50	
John T. Bustin	c/o Carter Oil Co., Burbank, Okla.	9/18/22	1.25	
John Byrne	117 Bostwick Ave., Jersey City, N. J.	9/19/29	2.52	
Charles H. Campbell	c/o Paul T. Campbell, Room 622, 115 Broadway, New York City	6/25/25	12.00	
Miss Elizabeth Campbell	126 Broadway, Wilmette, Ill.	6/ 5/30	5.00	
Arthur B. Caraway	Grand Lake, Arkansas	5/14/31	6.50	
Frank T. Carey	377 Park St., Boston, Mass.	3/12/30	4.00	
Thomas J. Casidy	Grand Hotel, 45 W. 22nd St., Bayonne, N. J.	9/23/31	7.00	30
George Chapman	Scotlandville, Louisiana	1/10/29	7.52	
Mr. Pedro Chazaro	Apartado 657, Tampico, Mexico	3/14/27	6.75	
Cecil C. Cherry	c/o A. E. Perry, Route No. 2, Seminole, Oklahoma	6/ 4/31	3.00	
Miss Stella R. Childs	c/o Mrs. Fredrick, 1539 N. Wells St., Chicago, Ill.	7/27/26	2.50	
Douglas Clark	648 Maple Ave., Elizabeth, N. J.	Not transferred of record	4.72	
Joseph M. Clark	Ringling, Oklahoma	12/19/29	4.50	40
S. H. Clark	Henrietta, Texas	9/18/24	.75	

Answer.

	Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends
	Clement Clarke	3232 Delaware St., Charleston, S. C.	11/25/21	$1.25
	John Cohara	1218 Hathaway Road, Valley View Village, Ohio	4/ 8/29	1.88
	Ivan O. Collins	c/o Grisso Gasoline Plant, Box 997, Seminole, Oklahoma	12/ 9/29	2.00
10	Garret Conklin	1 Gerard Ave., New York City	7/ 3/29	2.40
	Basil Conlon	1308 E. 117th St., Cleveland, O.	3/26/29	1.88
	Charles B. Copperman	5317 McBride Ave., Cleveland, O.	3/23/26	6.75
	Joseph F. Cormore	Rm. 912, 1 Exchange Place, New York City	5/21/29	37.50
	Floyd R. Crossno	c/o Laurie Bowman, Box 997, Seminole, Oklahoma	7/ 2/31	5.00
	Mrs. Josephine N. Crowell	6337 Woodlawn Ave., Chicago, Illinois	9/11/23	.50
	Ambrose J. Dacey	244 William St., Belleville, N. J.	1/25/32	1.00
20	Frederich Dalldorf	c/o Waried Tankschiff Rhedere, G.M.B.H. Hamburg, 36, Never Jungfernstieg 21, Germany	3/10/29	1.13
	Ferdinand H. Dalrymple	121 Center Rd., Bedford, Penna.	5/17/28	3.75
	Maria T. Davila	Apartado 1273, Mexico, D. F.	9/ 9/31	10.75
	Clay Davis	P. O. Box 72, Baton Rouge, La.	9/15/31	1.00
	James H. Davis	General Delivery, Wilson, Okla.	5/ 5/32	.50
	Lee Davis	1010 Julia St., Baton Rouge, La.	8/12/32	4.50
	Frank E. Davison	Meadville, Pennsylvania	8/21/24	2.50
	Ernest Day	474 Central Park West, New York City, N. Y.	5/26/30	2.50
30	Kenneth B. Day	22 West 72nd St., New York City, N. Y.	12/26/24	2.50
	Albert F. DeGuines	1860 Foster Ave., Chicago, Ill.	10/ 2/23	3.75
	Miss Rose Ella Dennan	c/o Dr. Cyril K. Church, 180 W. 59th St., New York, N. Y.	10/ 3/28	1.13
	Eugene Denos	342 W. 22nd St., New York, N. Y.	Not transferred of record	11.17
	Annabel C. Dolson	Rm. 737, 26 Broadway, New York, N. Y.	2/11/30	3.50
40	George E. Dowler	Collinsville, Oklahoma	2/16/31	.50
	Mr. Frank Drapalun	747 McKinley St., Elizabeth, N. J.	4/26/27	1.25

Answer.

unt of paid dends	Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends	
.25	Mrs. Mary Dumont	Belmont Hotel, 3156 Sheridan Rd., Chicago, Ill.	8/ 2/29	$12.50	
.88	Claude K. D'Unger	Apartado 657, Tampico, Mexico	6/ 4/26	6.25	
	Bailey O. Edwards	314 W. 25th St., Norfolk, Va.	4/15/29	1.13	
2.00	John M. Elliot	New Alexandria, Pa.	7/ 6/28	1.88	
2.40	Ellis O. Estes	Box 1301, Drumright, Okla.	9/17/29	1.26	10
.88	William T. Ferguson	1108 Union Trust Bldg., Charleston, W. Va.	1/19/29	1.88	
5.75	Arturo Fernandez	Calle 56 #486 Merida, Yuc., Mexico	Not transferred of record	66.15	
7.50					
5.00	Luis A. Fernandez	Av. Roque Saenz Pena 567, Buenos Aires, Argentina	4/ 6/26	1.25	
.50	Dermot Fitzgibbon	c/o N. Y. American, 1834 Broadway, New York City	12/17/21	5.00	
.00	Miss Sarah Ford	c/o Mrs. Gerard Cox, Glen Cove, Box 545, L. I., N. Y.	1/11/29	12.76	20
.13	Miss Gertrude Forrest	Sta. "F", Box 37, New Orleans, La.	5/ 8/28	11.63	
3.75	James Fox	Box 222, Overland, Mo.	3/13/30	17.50	
0.75	Franklin Securities Corporation	c/o White, Wright & Co., 50 Broad St., N. Y. C.	11/28/29	11.25	
.00					
.50	Avelino V. Galante	19 Andrew St., Bayonne, N. J.	6/ 6/30	17.00	
1.50	Miss Mary Gallagher	Mayfair House, Park Ave. at 60th St., New York City	8/24/28	5.00	
2.50	Mrs. Mary Gallagher	2096—53rd St., N. Y. C.	6/20/30	2.50	
2.50	Miss Grace Gals	Belden Apts., Cleveland, Ohio	6/ 6/28	1.88	
	F. P. Gardin	629 W. 173rd St., Apt. 7G, N. Y. C.	5/ 3/29	5.63	30
2.50	Mr. Patrick Gavin	368 Boulevard, Bayonne, N. J.	3/ 5/26	8.75	
3.75	Earl A. Gibson	Rockwood, Tenn.	1/28/29	.38	
.13	Joseph Godleski	49 Warren St., Carteret, N. J.	8/29/32	7.00	
1.17	Ivy B. Goodwin	General Delivery, Holdenville, Okla.	9/14/27	8.25	
	Mrs. Earl V. Graham	Arcata, Humboldt Co., California	9/28/30	3.75	
	Mrs. Hannah J. Green	177 N. E. 50th St., Miami, Florida	12/12/33	2.37	
	Royal D. Greer	LaGrange, ~~North Carolina~~	3/11/29	3.38	
3.50	Eugene Haeffner	c/o Dreiur & Co., 33 W. 46th St., New York City	11/ 5/25	10.00	40
.50					
1.25					

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends
John P. Hale	15 Claremont Ave., N. Y. C.	Not transferred of record	$4.87
Louis Hallas	Standard Oil Company of New Jersey, Marine Department, 26 Broadway, New York City	1/ 7/29	7.88
David Halpern	631 So. Westlake Ave., Los Angeles, Calif.	11/21/29	4.00
Floryan Harbus	1325 Wrightwood Ave., Chicago, Ill.	3/19/25	2.50
Fred C. Harper	Box 1486, Seminole, Oklahoma	4/28/32	1.50
James Hefferan	807 Ocean Ave., Jersey City, N. J.	2/ 5/30	1.88
Miss Ino Heikinen	2221 E. 14th St., Brooklyn, N. Y.	11/23/28	4.52
Miss Mary E. Henebry	2100 Hudson Ave., Chicago, Ill.	5/ 2/29	3.76
George W. Henry	Apartado 657, Tampico, Tampi, Mexico	6/26/23	1.50
Mrs. Eleanor C. Hildebrand	c/o Union & Planters Bank & Trust Co., Memphis, Tenn.	2/17/29	37.50
S. C. Hindman	Drawer Y, c/o Lion Oil & Refining Co., El Dorado, Arkansas.	10/ 7/24	1.00
Margaret G. Hinkley	120 Broadway, New York City	1/29/23	12.50
William B. Hodd	Apartado 657, Tampico, Mexico	8/29/29	8.00
Patrick Holian	333 Fairmont Ave., Jersey City, N. J.	9/27/29	5.00
Otis H. Holt	Muskogee, Okla.	4/ 3/29	1.13
George H. Hoover	2804 N. 16th St., Omaha, Nebr.	12/ 1/31	2.50
John T. Hudson	109 South 18th St., Baton Rouge, La.	6/16/33	1.50
Clyde H. Imler	Box 967, Wilson, Okla.	12/ 2/31	6.00
John M. Irwin	229 W. 46th St., New York City	8/30/27	3.75
John W. James & Stella M. James, as Joint Tenants, etc.	c/o J. J. Shepard, Jersey City, N. J.	8/ 3/28	4.50
Jerry Jarrett	4316 Westway, Toledo, Ohio	1/12/33	11.50
Frank S. Jasin	1 Chase Court, Bayonne, N. J.	8/10/26	3.50
Fred B. Jetton	c/o Gulf Refining Co., Trees, La.	4/ 5/28	1.52
Hans Johanson	Standard Oil Company (N. J.) Marine Dept., 26 Broadway, N. Y. C.	8/24/26	9.75
Mrs. Mahley Johnson, Ernest Johnson and William Johnson	Georgia St., Baton Rouge, La.	10/ 2/25	.25

Answer.

Amount of Unpaid Dividends	Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends	
$4.87	Walter E. Johnson	36 Irving St., West Springfield, Mass.	Not transferred of record	$11.50	
	Eudell Jolly	120 No. Stone, Tucson, Arizona	4/30/29	.76	
7.88	Albert J. Kalmary	212 Freeman St., N. Y. C.	4/10/30	25.00	
	George A. Kenyon	Bryant, Oklahoma	9/11/28	.38	10
4.00	Albert Sidney King	c/o CC. Cannery, Cottage 5, Modesto, California	9/25/28	.76	
2.50					
1.50	Janet Henke King	6930 So. Shore Drive, Chicago, Ill.	1/ 2/29	.76	
1.88	S. Cornelia Kingsley	103 Elk St., Syracuse, N. Y.	11/11/28	4.50	
4.52	H. F. Klamt	c/o Sinclair Oil Co., St. Joe, Tex.	12/ 5/27	15.00	
3.76	Robert E. L. Knight, Jr.	c/o American Exchange N. Bank, Dallas, Texas	8/ 3/34	50.00	
1.50	Anton Koeller	1838 N. Cleveland Ave., Chicago, Ill.	2/27/24	.25	
	Joseph L. Kolenz	3210 W. 90th St., Cleveland, Ohio	10/18/29	1.50	
17.50	Richard C. Kroggel	149 — 15th St., Wheeling, Va.	6/15/29	25.00	20
	Albert B. Langston	Kilgore, Texas	12/21/33	4.75	
1.00	Fred Lavis, Jr.	50 Greenacres Ave., Scoville, N. Y.	9/16/29	2.50	
2.50	Mrs. Anna Lavrit	113 Grier Ave., R. F. D. No. 2, Elizabeth, N. J.	11/14/29	2.26	
8.00					
5.00	Mrs. Minnie E. Leach	97 Serphens St., Suite 32, Boston, Mass.	2/26/25	1.00	
1.13					
2.50	Harley R. Leasure	Grove, W. Va.	3/30/29	3.38	
1.50	Fred J. LeBlanc	c/o Standard Shipping Co., 26 Broadway, New York City	6/28/29	5.00	
5.00					
3.75	Herbert Levitan	206 Grand Blvd., Long Beach, L. I., N. Y.	8/21/29	1.50	30
	Gilbert Lewis	513 E. Grave St., Richmond, Va.	1/ 2/31	1.00	
4.50	Frank L. Lienhard	Commonwealth Apts., Cedar Rapids, Ia.	7/29/29	7.50	
1.50					
3.50	Isidoro Lopez	Isabel L. Catulico 1038, B. S. Aire S. A.	3/17/29	2.25	
1.52					
	William Lowe	c/o Mrs. Charlotte K. Lowe, Executrix, 144 Buckingham Road, Yonkers, N. Y.	2/14/30	7.00	
1.75					
.25	Roy J. Lyon	406 State St., Bristol, Tenn.	6/22/31	1.00	
	Thomas McEnroe	c/o Mr. Coches, 4706 — 45th St., Sunnyside, L. I., N. Y.	1/ 8/29	18.75	40

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends
Mrs. Mildred Lee McGarr	Gen'l Delivery, Holdenville, Okla.	3/ 3/30	$14.00
John McGhee	P. O. Box 1347, Baton Rouge, La.	4/18/33	1.75
Mrs. Smith McKown	1 Woodward St., Charleston, S. C.	3/16/26	3.25
Joseph F. McLaughlin	701 Oregon Ave., Philadelphia, Pa.	2/10/30	2.00
Vance L. McLean	703 S. Okfuskee St., Wewoka, Okla.	2/ 2/30	10.00
John W. McLelian	New Glasgow, N. S.	2/ 1/31	5.00
James M. Magee	South Mansfield, La.	8/ 6/26	1.00
George W. Magrogan	653 Columbia Rd. N. W., Washington, D. C.	4/12/32	2.00
Gus Malmberg	91 Mission St., San Francisco, Calif.	12/28/29	1.00
Mrs. Malinda J. Martyn	Richardson, W. Va.	11/20/28	12.75
Charles Marzahl	131 Market St., Perth Amboy, N. J.	6/24/29	11.26
Gustav A. Matscher	479 — 56th St., Brooklyn, N. Y.	4/ 3/30	5.00
Arthur E. Matthewson	Oshawa, Ont., Canada	9/16/29	5.00
Richard B. May	2715 No. 45th St., Omaha, Neb.	1/ 3/30	2.00
Florence B. Mayer	16 Claremont Ave., N. Y. C.	10/19/29	5.50
Fred E. Mercer	c/o Standard Oil Company (New Jersey), 26 Broadway, N. Y. C.	7/ 3/28	3.39
Marvin C. Merrifield	3411 Brothers Pl., Anacostia, D. C.	4/ 2/33	5.00
Alvin Metcalf	1030 S. Utica Pl., Tulsa, Okla.	9/20/29	1.50
D. W. Middleton	c/o G. T. Co., New York, 5th Avenue & 43rd St., N. Y. C.	6/ 2/26	.75
Harry Miller	c/o Richard Whitney, 50 Broadway, New York City	7/27/30	12.00
Samuel M. Millsap	c/o A. E. Perry, Route 2, Seminole, Oklahoma	11/21/30	3.00
John Miskiewicz	203 Bayway, Elizabeth, N. J.	12/ 8/31	1.50
Duke Mitchell	Hazel, Oklahoma	5/24/29	3.00
Joseph F. Moon	c/o Standard Oil Company (N. J.), Charleston Refinery, P. O. Box 880, Charleston, S. C.	12/ 4/29	1.00
Miss Irene Moore	P. O. Box 132, Scotlandville, La.	4/11/32	1.50
Francisco A. Mozziotti	Transferide Al Sr., West India Oil Co., Sicursal Tucumon, F C A A.	8/28/30	.50
Amos R. Neer	c/o Standard Oil Co. of Argentina Buenos Aires, Argentina	5/21/29	5.25

Answer.

nt of idends	Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends	
00	Rivhard Nicholson	c/o F. C. Bigley, Standard Oil Company, Baltimore, Maryland	1924	$3.75	
75	Edw. A. Northen	986 Misson St., San Francisco, Calif.	3/28/27	1.13	
25	Archie Odell	Cooper, Okla.	10/ 6/28	.38	
00	Mr. Charles Oszust	483 Broadway, Bayonne, N. J.	11/ 8/26	9.25	
00	Ben F. Pace	c/o A. E. Perry, Route #2, Seminole, Okla.	6/11/31	2.00	10
00	Nick C. Palmer	Weller Ave., Istrouma P. O., La.	3/19/29	1.50	
	Mrs. Clara S. Patterson	624 S. Michigan Ave., Chicago, Ill.	3/20/29	2.26	
00	Mrs. Janice A. Patterson	1673 Columbia Rd., Washington, D. C.	10/23/29	36.34	
00	Isaac Payne	206 Adam St., Baton Rouge, La.	7/22/31	.50	
75	Mrs. Eleba M. Peck	231 S. LaSalle St., Chicago, Ill.	12/19/29	1.50	
26	John H. Peel	Rm. 905, 208 S. LaSalle St., Chicago, Ill.	4/ 8/30	1.50	
00	Louis Pemoulie	209 Parkview, Houston, Texas	9/12/27	12.00	20
00	Eudaldo Ramirez Perea	Luco #12, Habana, Cuba	4/ 2/30	12.00	
50	Jenny O. Petersen	233 Clinton Rd., Brookline, Mass.	11/13/31	10.00	
	Arthur A. Pettigrew	Box 997, Seminole, Okla.	10/ 1/29	3.00	
39	John H. Philips	R. D. #2, Waynesburg, Pa.	7/22/29	7.88	
00	Raymond L. Philips	R. D. #1, Ruffsdale, Penna.	3/ 4/27	4.88	
50	Roy M. Pierce	Shawnee, Okla.	7/ 2/29	7.50	
75	Joseph Poirier	428 — 3rd Ave., No. Sask., Canada	9/18/29	10.00	
00	K. C. Prettyman	68 N. Atlanta, Tulsa, Okla.	11/18/29	.50	
	Wallace T. Price	P. O. Box 141, Glen Ridge, N. J.	12/27/29	9.00	30
00	Jason P. Rader	c/o Carter Oil Co., Burbank, Calif.	5/ 9/28	4.88	
50	John L. Raines	Box 383, Seminole, Oklahoma	8/31/31	2.00	
00	Oscar Range	American House, 16th & Bloke Sts., Denver, Colorado	5/11/28	7.50	
00	Miss Florence Renoy	c/o Battery Park Hotel, Asheville, N. J.	9/19/30	.50	
50	Raymond Hugh Richard	c/o Houston Oil Company, Smackover, Arkansas	9/24/31	3.50	
50	Roy T. Richards	c/o Standard Shipping Company, 26 Broadway, New York City	1/27/30	5.50	
25	Edward N. Richardson	2620 Josephine St., New Orleans, La.	4/ 8/29	6.38	40

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of Stock	Amount of Unpaid Dividends
Norval R. Richardson	5058 N. Lincoln St., Chicago, Ill.	1/14/30	$17.00
Avice E. Riddle	570 E. 183rd St., New York City, N. Y.	11/26/28	.76
Elmo Roberson	1122 So. Royal St., Baton Rouge, La.	3/18/32	3.00
Leslie I. Robertson	Box 1411, Seminole, Oklahoma	7/ 3/31	.50
Reginald E. Robinson	R.F.D. Box 281, Charleston, S. C.	5/14/29	3.00
Thomas Roche	Box 58, Brooklyn, N. Y.	9/ 4/29	5.00
Mrs. Alice Edmondson Ross	23 Boker St., San Francisco, Calif.	7/17/29	6.26
Leopold T. Sanchez	Calle De Bucarelli No. 41, Mexico, D.F.E.U.M.	Not transferred of record	1.88
William T. Sanders	1208 Kearney Stores, Manhattan, Kansas	Not transferred of record	1.22
Edward E. Saulsbury	General Delivery, Seminole, Okla.	6/ 8/31	2.50
Emily Schmeiczka	101 W. 57th St., New York City	12/13/30	2.50
John Schuster	26 Trotter Lane, Elizabeth, N. J.	6/26/32	4.00
Hazel D. Scott	57 Linden St., Wyoming, N. J.	5/27/26	.50
Esie Seligman	145 W. 79th St., New York, N. Y.	7/ 1/30	5.00
Goldie Selly	12 W. 93rd St., New York City	1/29/29	3.76
William C. Shafer	117 Albany Ave., Kingston, N. Y.	9/15/30	5.00
Timothy Silk	345 W. 43rd St., New York City	11/20/25	6.25
Robert D. Sinclair	c/o St. Oil Co. Av. Roque Saenz Pena 567, Buenos Aires, Arg.	6/19/30	5.50
Edward Sinelli	134 W. 26th St., New York City, N. Y.	12/19/29	5.00
Isom O. Skaggs	c/o Harry Alexander Box 997, Seminole, Okla.	6/29/31	4.50
Miss Leah M. Skelton	223 Walnut St., East Orange, N. J.	9/13/29	10.00
Kenneth C. Smith	115 Richland Ave., Asheville, N. C.	7/ 5/29	5.25
Otis F. Smith	440 N. Part St., Seminole, Okla.	10/ 4/29	2.00
Miss Retta E. Smith	720 S. Denver C-3, Tulsa, Okla.	4/30/29	1.50
Mr. Wallace Smith	Gen'l Delivery, Baton Rouge, La.	9/ 7/26	2.25
Clifford T. Snyder	901½ Virginia Ave., Parkersburg, W. Va.	5/ 2/28	1.88
Samuel B. Springer	P. O. Box 439, 1603 Grace St., Wilmington, N. C.	9/15/29	2.50

Answer.

ount of npaid idends	Name of Stockholder	Last Known Address	Date of Transfer of stock	Amount of Unpaid Dividends	
7.00	Richard A. Staderman	397 Commonwealth Ave., Boston, Mass.	2/25/26	$1.25	
.76	Rolla Steinheimer	1327 Santer St., Los Angeles, Calif.	12/11/23	1.25	
3.00	Frank G. Stock	22 Waverly St., Jersey City, N. J.	4/12/29	7.88	
.50	Mrs. Aileen Purl Stokes	Box 52, Helper, Kansas	3/14/32	2.25	
3.00	Michael Suit	Carnegie St. & Eliz. Ave., Linden, N. J.	10/ 2/27	.38	10
5.00					
6.26	Jeff D. Sullivan	Box 997, Seminole, Okla.	3/ 7/29	1.88	
	Roger E. Sutphin	c/o H. L. Francisco, Charlevoix, R. F. D. #1, Mich.	1/31/29	2.25	
1.88					
	David H. Taylor	703 St. Paul St., Baltimore, Md.	7/11/29	4.50	
	William O. Thomas	c/o Standard Oil Company Louisiana, P. O. Box 47, Haynesville, La.	3/23/32	3.50	
1.22					
	Mrs. Agnes S. Thompson	Route 1, Box 256, Watsonville, Calif.	Not transferred of record	3.22	
2.50					20
2.50	Harry H. Thompson	c/o Wm. Rondeaux, R. D. #3, Trenton, N. J.	11/23/26	1.75	
4.00					
.50	John F. Tipton	Ardmore, Oklahoma	9/30/30	11.50	
5.00	Auburn A. Toothman	R. F. D. #4, Mannington, West Va.	12/11/29	5.50	
3.76	A. Robert Trussell	Box 23, Mink, Texas	1/ 3/29	3.75	
5.00	George H. Tucker	Box 997, Seminole, Oklahoma	6/ 8/32	3.00	
6.25	Frank J. Tunstead	Alexandria, Louisiana	3/19/30	20.00	
	Austin H. Turney	331 Johnson Ave., Lawrence, Mass.	3/23/29	3.75	
5.50	Patrick Twomey	902-3rd Ave., New York City, N. Y.	12/18/30	3.50	
	Jess Vincent	Box 997, Seminole, Oklahoma	7/ 8/31	4.00	30
5.00	Bartholomeus L. Voskuil	c/o U. S. Mortgage & Trust Co., 55 Cedar St., N. Y. C. Acct. 1804	6/12/19	9.00	
4.50	Frederick Wallace	10 Manhattan Ave., New York, N. Y.	9/28/26	10.00	
0,00	Roy O. Wanvig	Standard Oil Company (New Jersey), 26 Broadway, New York City, N. Y.	8/15/29	10.50	
5.25					
2.00					
1.50	Frank J. Ward	234 Virginia Ave., Jersey City, N. J.	9/ 1/32	9.50	
2.25	Jose R. Ward	c/o Standard Shipping Co., 26 Broadway, New York City, N. Y.	8/15/29	2.00	
1.88	Garth G. Watts	Seminole, Oklahoma	8/11/31	1.00	40
2.50					

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of stock	Amount of Unpaid Dividends
Albert F. Webb	Box 384, Denison, Okla.	4/25/29	$1.13
Hurley H. Webb	Pilot Mountain, North Carolina	4/30/29	8.25
Carl Weber	5207 Avalon Blvd., Los Angeles, Calif.	12/ 9/28	9.38
Joseph B. Webster	325 Lake St., River Forest, Ill.	Not transferred of record	37.47
Mrs. Emma Westenhaver	Logan, Ohio	3/20/30	25.00
Louis Wexler	193 E. 12th St., Brooklyn, N. Y.	5/ 5/30	10.00
Bob White	1728 Gracie St., Baton Rouge, La.	8/31/31	1.50
John O. White	Genl. Delivery, Eldorado, Kansas	9/18/29	4.38
Virginia M. White	301 E. 38th St., New York City, Apt. 5-G	9/14/29	5.00
Donie W. Whittington	Gen'l Delivery, Baton Rouge, La.	9/ 6/31	1.50
James D. Whitty	1515 Florida St., Baton Rouge, La.	6/14/31	.50
Miss Helmi Wilkstrom	4305 Grand Blvd., Chicago, Ill.	10/15/29	1.00
Edward F. Williams	326—8th Ave., Huntington, W. Va.	9/15/29	.50
Leslie F. Wilson	311 W. Orange St., Wewoka, Okla.	9/16/31	6.50
Merrill W. Wilson	c/o Humble Pipe Line Co., Box 455 Panhandle, Texas	10/20/27	1.50
Wallace D. Winslow	c/o Mrs. Metta J. Winslow Guardian 1610 Eutan Pl., Baltimore, Md.	10/ 2/30	7.00
Etta Winter	254 W. 35th St., New York, N. Y.	12/30/30	1.00
Walter P. Wood	Box 997, Seminole, Oklahoma	6/26/29	5.25
Raymond L. Woodard	2103 Spain St., New Orleans, La.	6/23/26	.50
James J. Wright	451 S. Broad St., Elizabeth, N. J.	7/ 8/30	9.50
Leo P. Zajac	Apartado 657, Tampico, Mexico	5/25/28	11.63

2. DIVIDENDS ON PREFERRED STOCK

Bessie R. Buehler	600 W. 174 St., New York, N. Y.	8/13/20	3.50
Louise Buisson	Paris, France	3/19/20	3.50
Mrs. Elizabeth A. Donovan Duffley	Hotel Biltmore, 43rd St. and Madison Ave., New York, N. Y.	Ledger Accounts could not be located	52.50
Mrs. Anne W. Geigerman	Sherman Square Hotel, Broadway & 70th St., New York, N. Y.	12/14/20	43.75

Answer.

Name of Stockholder	Last Known Address	Date of Transfer of stock	Amount of Unpaid Dividends
Miss Dorothy A. Haight	c/o Mrs. Kirkpatrich, 30 W. 36th St., New York, N. Y.	3/14/22	$17.50
Jacob J. Hawes	101 E. 41st St., Kansas City, Mo.	4/18/21	35.00
Mrs. Louise R. Kiesel	515 Lackawanna Ave., Scranton, Pa.	12/11/25	1.75
William Anton Schmidt	Dewey Ave., Queens, Long Island, N. Y.	10/ 3/24	17.50
Baldy L. Whitehead and Emma H. Whitehead as Joint Tenants, etc.	437 Columbus Ave., Boston, Mass.	3/15/no year shown	21.00

With reference to dividends on both common and preferred stock, the designation "Date of Transfer of Stock" above set forth, indicates the date when the shares of stock on which the unclaimed dividends were declared and payable, were transferred of record to someone else. None of the stock so designated is now on the books of the defendant in the name of anyone who has remained unknown or whose whereabouts has remained unknown for a period of fourteen successive years within the contemplation of R. S. 2:53-15 to 2:53-32. No dividends subsequently declared on such transferred stock have remained unclaimed for a period of fourteen successive years.

The designation "Not Transferred of Record" indicates that such shares of stock are still held in the name of individuals who have either, (1) continued to remain unknown, or (2) whose whereabouts have continued to remain unknown, or (3) who have continued to fail to claim the dividends declared on such stock. All the preferred stock above set forth has been redeemed by defendant.

In the case of some of both the common and preferred dividends above set forth, the dividend checks were not returned by the Post Office, and

are still outstanding. Except with respect to the preferred stock, and the common stock shown as "not transferred of record", defendant has not as yet been able to ascertain from its records whether the dividend checks were returned from the Post Office or are still outstanding.

In compiling the foregoing information the defendant has set forth the total unclaimed dividends shown on its books as arising against it up to January 1, 1934, in the belief that such date was to be the measuring date. The petition and order seek this information only to January 1, 1932. It is impossible within the time allowed to file this answer, to apportion or allocate those unclaimed dividends above set forth which were payable between the dates January 1, 1932, and January 1, 1934.

In addition to the foregoing, a search of the general ledger of the defendant for the period from January 1, 1900, to December 31, 1933, discloses that liabilities for checks aggregating $110.50, representing unclaimed dividends, were set up on its books and subsequently transferred to earnings account as follows:

Dividend Checks for	Year set up as liability	Year Transferred to Earnings
$ 1.50	1904	1908
12.00	1908	1908
97.00	1930	1938

To date the defendant has not been able to ascertain the names of the payees of the last-mentioned checks.

With respect to the shares of stock designated "Not Transferred of Record," the defendant sets

forth below the unclaimed dividends declared and payable thereon between January 1, 1934 and June 12, 1945:

Name and Address	Number of Shares	Total Unpaid Dividends 1/1/34 to 6/12/45
Miss Frances E. Beaudett, 86 Woodside Terr., Springfield, Mass.	1	
Ordinary dividends		$ 21.75
Proceeds of scrip certificates payable 12/15/38; 6/15/39; 12/15/39		1.58
Consolidated Natural Gas Company stock dividend adjustment check		2.66
Mrs. Christina Bolton, 106 Bogard St., Charleston, S. C.	1	
Ordinary Dividends		21.75
Mission Stock Dividend scrip certificates returned by Post Office and redeemed		1.02
Consolidated Natural Gas Company stock dividend adjustment check payable 12/15/43		2.66
Douglas Clark, 648 Maple Ave., Elizabeth N. J.	1	
Ordinary Dividends		21.75
Mission Stock Dividend Scrip Certificates returned by Post Office and redeemed		1.02
Consolidated Natural Gas Company stock dividend adjustment check payable 12/15/43		2.66
Eugene Denos, 342 W. 22nd St., New York City	3	
Ordinary Dividends		65.25
Mission Stock Dividend scrip certificates returned by Post Office and redeemed		3.06
Consolidated Natural Gas Company stock dividend adjustment check payable 12/15/43		7.97
Arturo Fernandez, Av. Roque Saenz Pena 567, Buenos Aires, Argentina	4	
Ordinary Dividends		84.40
Mission Stock Dividend scrip certificates returned by Post Office and redeemed		4.08
Consolidated Natural Gas stock dividend adjustment check payable 12/15/43		10.63
John P. Hale, 15 Claremont Ave., New York City	5	
Ordinary Dividends		108.75
Mission Stock Dividend scrip certificates returned by Post Office and redeemed		5.10
Scrip certificates representing stock dividends payable 12/15/38; 6/15/39 and 12/15/39 were returned by the Post Office and sold		7.84
Consolidated Natural Gas stock dividend adjustment check payable 12/15/43		13.29

Name and Address	Number of Shares	Total Unpaid Dividends 1/1/34 to 6/12/45
Walter E. Johnson, 36 Irving St., West Springfield, Mass.	1	
Ordinary Dividends		$21.75
Mission Stock Dividend scrip certificate returned by Post Office and redeemed		1.02
Scrip certificate representing stock dividend payable 12/15/38 returned by Post Office and sold		.70
Consolidated Natural Gas Company stock dividend adjustment check payable 12/15/43		2.66
The June 15, 1939 and December 15, 1939 registered shipments containing scrip certificates were not returned to the defendant.		
Leopold T. Sanchez, Calle De Bucarelli No. 41, Mexico, D. F. E. U. M.	5	
Ordinary Dividends		149.50
Registered shipment containing Mission Stock Dividend scrip not returned by the Post Office.		
Scrip certificates representing stock dividends payable 12/15/38; 6/15/39; and 12/15/39 were returned by the Post Office and sold		7.84
Consolidated Natural Gas Company stock dividend Adjustment Check payable 12/15/43		13.29
William T. Sanders, 1208 Kearney Stores, Manhattan, Kansas	1	
Ordinary Dividends		21.75
Consolidated Natural Gas Company stock dividend Adjustment Check payable 12/15/43		2.66
Registered shipments containing Mission Stock Dividend scrip certificate and scrip certificates representing the 12/15/38 and 6/15/39 and 12/15/39 stock dividends were not returned to defendant by the Post Office.		
Mrs. Agnes C. Thompson, Route 1, Box 256, Watsonville, Calif.	1	
Ordinary Dividends		21.75
Mission Stock Dividend scrip certificate returned by Mrs. Thompson and redeemed		1.02
Consolidated Natural Gas Company stock dividend Adjustment Check payable 12/15/43		2.66
Mrs. Thompson advised defendant in her letter dated July 26, 1932 that she was no longer the owner of the 1 share certificate.		
Joseph B. Webster, 325 Lake St., River Forest, Ill.	3	
Ordinary Dividends		65.25
Mission Stock Dividend scrip certificate returned by Post Office and redeemed		3.06
Consolidated Natural Gas Company stock dividend Adjustment Check payable 12/15/43		7.97

3. UNPAID WAGES AND SALARIES

Year	Total	Refinery Dept.	Marketing Dept.	Administration Dept.
1900	Not Available	Not Available		
1				
2				
3				
4	$ 114.49	$ 114.49		
1905	162.83	162.83		
6	351.19	351.19		
7	836.14	836.14	Not	
8	2,009.26	2,009.26	Avail-	
9	1,379.01	1,264.01	able	$115.00
1910	688.45	688.45		
11	675.94	975.94		
12	853.19	853.19		
13	499.21	499.21		
14	320.39	320.39		
1915	318.22	318.22		
16	783.35	783.35		
17	1,690.73	1,690.05	$ .68	
18	2,022.74	2,022.08	.66	
19	5,364.36	5,364.36	—	
1920	3,848.01	3,842.04	5.97	
1	1,791.31	1,763.31	28.00	
2	491.06	488.06	3.00	
3	1,342.77	1,340.27	2.50	
4	473.68	473.68	—	
1925	2,090.96	2,090.96	—	
1926	2,269.82	2,269.82		
1927	1,003.97	957.34	46.63	
Total	$31,381.08	$31,178.64	$87.44	$115.00

The above statement of unpaid wages and salary has been taken from the books of the defendant company. The investigation by the company has not as yet disclosed the names and last known addresses of the individuals to whom such wages

4. UNCLAIMED DEPOSITS, ETC.

Unclaimed commercial bank checks never cleared through banks	$3,319
Unclaimed balances of Liberty Loan subscriptions	1,210
Total	$4,529

5. UNCLAIMED DEBENTURE COUPONS

Unmatured coupons detached from Standard Oil Company (New Jersey) 20 Year 5% Debentures, due December 15, 1946, called for redemption February 1, 1932. Pending surrender of the detached coupons, the face value thereof was deducted and withheld from the redemption value of the called bonds, paid on and after the call date	200
Unpresented matured coupons of Standard Oil Company (New Jersey) 20 Year 5% Debentures, due December 15, 1946, of which debentures with face value of $30,000,000.00 and $90,000,000.00 were called for redemption on February 1, 1932 and February 1, 1935 respectively	2,925
Total	$3,125

All the Debentures called for redemption February 1, 1932, have been redeemed.

With respect to the above mentioned unclaimed deposits, etc., defendant company has as yet been unable to secure the names or last known addresses of the persons who were entitled to make claim. With respect to unclaimed debenture coupons, the company has no knowledge of the names or last known addresses of the holders or former holders of such coupons, and is not able at this time to indicate what portion of the amount shown unclaimed is attributable to coupons which matured prior to January 1, 1934.

Pre-Trial Order.

(Filed October 15, 1948.)

The parties to this action or their attorneys having appeared before the Court at a pre-trial conference, the following action was taken:

1. The parties agreed to limit the trial of this action to the following issues:

(a) Those created by the allegations of the petition and the averments and denials of the answer.

2. At the request of the complaint it is ordered that the complainant have leave to amend the complaint as follows:

No amendments.

3. The parties agreed to stipulate the following facts: None.

4. The parties agreed to admit the following documents: None.

5. The parties agreed to limit the number of expert witnesses to not more than none for complainant; none for defendant.

It is further ordered that the parties furnish the Court with a trial brief as to the issues agreed upon by November 23, 1948.

Trial date November 30, 1948. Trial Time 1 day.

Dated October 6, 1948.

WILFRED H. JAYNE,
J. S. C.

EMERSON RICHARDS
Dept. Att. General Attorney
for Complainant.

STRYKER, TAMS & HORNER,
Attorney for Defendant.
by JOSIAH STRYKER.

Order Fixing Time.

(Filed October 7, 1948.)

And now, this 6th day of October, 1948, upon motion of Emerson Richards, Deputy Attorney General of the State of New Jersey and Attorney for petitioner,

It is ordered that a hearing upon petition heretofore filed in this cause be fixed for the 30th day of November, 1948, at 10 o'clock A. M. at the Court Room, State House Annex, Trenton, New Jersey, and that notice of the time and place of said hearing be given by petitioner by advertising in a newspaper of general circulation in Mercer County once a week for three (3) successive weeks and directing that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the Court his claim in writing at least five (5) days prior to the date fixed for the hearing.

(Signed by) Wilfred H. Jayne,
Wilfred H. Jayne, Judge.

Proof of Publication.

(Filed December 17, 1948)

STATE OF NEW JERSEY, MERCER COUNTY, } ss.:

ESCHEAT NOTICE

SUPERIOR COURT OF NEW JERSEY,
EQUITY DIVISION MERCER COUNTY.

(Docket No. 169, Page No. 14)

THE STATE OF NEW JERSEY by Walter D. Van Riper, Attorney General of the State of New Jersey, Plaintiff *vs.* STANDARD OIL COMPANY, Defendant.

CIVIL ACTION.

NOTICE OF ORDER FIXING TIME AND PLACE OF HEARING.

Notice is hereby given that the Superior Court of New Jersey, Equity Division, has fixed a hearing for Tuesday, November 30, 1948 at 10 o'clock A. M., in the Court Room, State House Annex, Trenton, New Jersey, on the petition for escheat to the State of New Jersey of moneys and personal property, consisting of certain shares of stock of the above-named company, dividends declared upon the shares of the said company, bonds and debentures issued by the said company, interest and coupons on bonds and debentures issued by the said company, deposits made with the said company on account of liberty bond subscriptions and other personal property held by, in the possession of or owing by the said company the owners or beneficial owners of, or persons entitled to,

such property having been and having remained unknown for the period of 14 successive years prior to the filing of the said petition, or the whereabouts of such former owners or beneficial owners, or persons entitled, having been and having remained unknown for the period of 14 successive years prior to the filing of the said petition, or such property having remained unclaimed for the period of 14 successive years prior to the filing of the said petition.

The said petition is on file in the office of I. Grant Scott, Clerk of the Superior Court of New Jersey, and is open to the examination of any party in interest.

Any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the Court his claim, in writing, at least five (5) days prior to the day fixed for the hearing. Unless cause to the contrary is shown, a decree of escheat may be entered.

Dated: October 15, 1948.

EMERSON RICHARDS,
Deputy Attorney General of the
State of New Jersey,
800 Schwehm Building,
Atlantic City, N. J.

Fee $20.70. 10-19-26: 11-2 Times

Proof of Publication.

ALICE G. BARRY being duly sworn according to law, on her oath says that she is Bookkeeper for The Trenton Times (Inc.), publishers of The Trenton Evening Times, a newspaper printed and circulated in the City of Trenton, in the County and State aforesaid, and the deponent further states she has personal knowledge that an advertisement, of which the annexed is a true copy, was published in the issues of October 19-26; November 2, 1948.

ALICE G. BARRY

Sworn and subscribed before me, this 14th day of December, 1948.

A. M. HOPKINS,
Notary Public for N. J.

I hereby certify that the foregoing is a true copy of the original on file in my office.

I. GRANT SCOTT,
Clerk.

Conclusions On Submission of Certain Legal Issues for Determination.

(Filed March 3, 1949.)

Mr. Emerson L. Richards, Special Deputy Attorney General, for the State,

Messrs. Stryker, Tams & Horner (Mr. Josiah Stryker and Mr. Valdemar Beeken, of counsel), for the defendant,

Mr. George K. Large, for United States Tobacco Co. and United Fruit Co.,

Mr. John A. Hartpence, for United States Pipe & Foundry Co.

Jayne, J. S. C.:

In pursuanee of the terms of a legislative enactment entitled "An Act providing for the escheat of certain unclaimed personal property" and its amendments (*R. S. 2:53-15 to 2:53-32, N. J. S. A.*), a petition was filed in the Court of Chancery, in the name of the State of New Jersey, charging that the defendant has custody or possession of certain personal property which, by reason of the occurrence of one or more of the contingencies mentioned in the statute, has escheated to the State. A judgment is sought in this court declaring that the personal property so possessed and retained by the defendant has escheated to the State and directing its delivery to the State Treasurer.

The defendant in a schedule attached to its answer to the petition has revealed its possession of certain property comprehended by the statutory designation of escheatable personable property,

such as unclaimed dividends, debenture interest coupons, Liberty Loan Bond subscriptions, etc., which have for more than fourteen successive years prior to the filing of the present petition remained unclaimed and unpaid because the beneficial owner or person entitled thereto and his address have been unknown.

The defendant denies, however, that such property is now subject to escheat by the State and the averments of the answer introduce for decision, *inter alia*, certain issues of law which have been summarized in the plaintiff's brief in the following fashion:

"A. *Constitutionality:*

"1. That if the escheat statute is construed so as to provide for the escheat to the State of the property here involved, it violates both the New Jersey Constitution and the Constitution of the United States in that it violates the right of the defendant to acquire, possess and protect property, in that it takes the property for the public use of the State of New Jersey without compensation and in that it deprives the defendant of its property without due process of law.

"2. That with respect to the shares of stock listed in Schedule A, the last known domiciles of the record owners of the said shares were outside New Jersey, and to escheat the said shares of stock would deprive the owners thereof of their property without due process of law, in violation of the New Jersey Constitution and the Constitution of the United States.

Conclusions on Submission of Certain Legal Issues for Determination.

"B. *Situs:*

"That many of the persons listed in Schedule A as the former owners, or former beneficial owners, or persons entitled, were never citizens nor residents of the State of New Jersey and that the claims of such persons never had a situs in New Jersey; that if such claims were subject to escheat in any jurisdiction, they would be subject to escheat in the State of the last known domicile of such persons.

"C. *Jurisdiction:*

"1. That this court is without jurisdiction to escheat such property to the State of New Jersey, and a decree of escheat of this court would not protect the defendant from the claims of such other States in which the former owners or former beneficial owners might have been domiciled.

"2. That this court is without jurisdiction to escheat the shares of stock of the record owners thereof, since the last known domicile of such persons was outside New Jersey, and to escheat such property would mean that the record owners or other persons who may now own the same, would be deprived of their property without due process of law; that this would expose this defendant to liability to the true owners of the said shares of stock, which liability might be asserted against the defendant in other states where the defendant is suable, the defendant being suable in a number of other states, or would expose the defendant to escheat proceedings in the states of the last known domiciles of the owners of the said shares of stock.

Conclusions on Submission of Certain Legal Issues for Determination.

"D. *Statute of Limitations:*

"That all causes of action with relation to the said dividends, etc., accrued and arose against the defendant more than six years prior to the passage of the escheat act, as well as more than six years prior to the institution of these proceedings, and that any right of action has been barred by the New Jersey Statute of Limitations; that therefore all claims thereon have been legally extinguished and have become wholly unenforceable against the defendant.

"The defendant asserts that it has a vested right in the defense of the Statute of Limitations as to all such claims, and that the legislature had no power to divest the defendant of such vested right."

At a pre-trial conference it was proposed that it would be advantageous to debate at a preliminary hearing the controversial points essentially of a legal character in their abstract form. Counsel retained in three other similar cases, to wit, *State* v. *United Fruit Company*, docket No. 169/54, *State* v. *United States Pipe & Foundry Company*, docket No. 169/53, and *State* v. *United States Tobacco Company*, docket No. 169/15, have participated. The expectation that numerous additional proceedings would be instituted in pursuance of the purposes of the statute is now a reality. Presently I shall have before me 107.

The briefs of counsel have invited my attention to more than one hundred reported decisions, augmented by numerous references to other sources of information relating to the subject of escheat and to the doctrine of *Bona Vacantia*. I have, despite my current duties, consulted them.

Conclusions on Submission of Certain Legal Issues for Determination.

In this pursuit, however, I have discovered that some of the points of law projected for consideration cannot be preliminarily settled from an abstract presentation because the rulings necessarily implicate their application to a concrete statement of the facts of the particular case. To announce the variations in the law in their apposition respectively to the imaginable divergencies of the facts of such cases would require a composition of inordinate capacity.

Neither shall I be enticed by the abundance of informative material at hand to discuss historically the power of escheat which in this country has subsumed the governmental appropriation of personal property. A legislative recognition of the power to escheat real property may be found in New Jersey as early as February 27, 1828. *Elm. Dig.* 162; *O'Hanlin* v. *Den*, 20 N. J. Law 31, affirmed *Van Kleek* v. *O'Hanlon*, 21 N. J. Law 582. Perhaps the recent enactments in many states have been inspired by the appetite for new sources of needed public revenue but as Mr. Justice Jackson recently remarked, "Escheat, of course, is not to be denied on constitutional grounds merely because the motive of the state savors more of the publican than of the guardian." *Connecticut Mutual L. Ins. Co.* v. *Moore*, 333 U. S. 541, 92 L. Ed. 641, 68 S. Ct. 682. True, the sovereign power of escheat has been obliged to accommodate itself to the processes of evolution in governmental and property innovations, yet its legal vitality has not diminished on the way.

Is our Escheat Act manifestly unconstitutional on its face? In my judgment it is not. The power of the sovereign state to take charge of personal

property evidently so abandoned or unclaimed cannot be successfully controverted, notwithstanding the apprehension that the right to effectuate such power with respect to certain property and in certain special circumstances may be lawfully blockaded. *Anderson Nat'l Bank* v. *Luckett*, 321 U. S. 233, 88 L. Ed. 692, 64 S. Ct. 599, 151 A. L. R. 824; *Hamilton* v. *Brown*, 161 U. S. 256, 40 L. Ed. 691, 16 S. Ct. 585; *Christianson* v. *King County*, 239 U. S 356, 60 L. Ed. 327, 36 S. Ct. 114; *Security Sav. Bank* v. *California*, 263 U. S. 282, 68 L. Ed. 301, 44 S. Ct. 108, 31 A. L. R. 391; *United States* v. *Klein*, 303 U. S. 276, 82 L. Ed. 840, 58 S. Ct. 536; *Provident Inst. for Sav.* v. *Malone*, 221 U. S. 660, 55 L. Ed. 899, 31 S. Ct. 661, 34 L. R. A. (N.S.) 1129; *Cockrill* v. *California*, 268 U. S. 258, 69 L. Ed. 944, 45 S. Ct. 490; *Connecticut Mutual L. Ins. Co.* v. *Moore, supra; Re Melrose Ave.*, 234 N. Y. 48, 136 N. E. 235, 23 A. L. R. 1233; *In re Philadelphia Elec. Co.*, 352 Pa. 457, 43 A. 2d 116; *Germantown Trust Co.* v. *Powell*, 265 Pa. 71, 77, 108 Atl. Rep. 441; *Commonwealth* v. *Dollar Savings Bank*, 259 Pa. 138, 145, 102 Atl. Rep. 569, 1 A. L. R. 1048; *Cunnius* v. *Reading School District*, 206 Pa. 469, 471, 56 Atl. Rep. 16, 98 Am. St. Rep. 790, affirmed 198 U. S. 458, 49 L. Ed. 1125, 25 S. Ct. 721; *Univ. of N. Car.* v. *High Point*, 203 N. C. 558, 166 S. E. 511; *Delaney* v. *State*, 42 N. D. 630, 174 N. W. 290; *In re Forney*, 43 Nev. 227, 184 P. 206, 186 P. 678. 24 A. L. R. 553; *Re Apostolopoulos*, 68 Utah 344. 250 P. 469, 253 P. 1117, 48 A. L. R. 1322; *Re Montello Salt Co.*, 88 Utah 283, 53 P. 2d 727; *21 C. J. 851; 19 Am. Jur. 383; 34 Illinois Law Review 171.*

The point at issue that generates some perplexity and the one that has, I confess, protracted

my deliberations, relates to the availability and effectiveness in these cases of the defense of the statute of limitations where, as here, it is affirmatively interposed by the defendant.

I face an imposing procession of decisions by the courts of this state relating to the essence and affiliated effects of the so-called immunity from suit which arise by operation of the statute of limitations. The proximate pertinency of this subject to these proceedings becomes at once discernible upon the suggestion of the inquiries—whether the immunity conferred by the statute of limitations constitutes a vested right; whether, where invoked, it operates to extinguish the chose in action, the debt, the proprietary interest of the claimant which, as the case may be, is sought to be escheated, and if such is its operative effect, can the legislature by the passage of subsequent legislation revive claims which have theretofore become legally incapable of recovery?

To display the state of the law on this topic in New Jersey, I shall quote liberally from some of our reported decisions.

At the head of our column of authorities is the uniformly cited decision of Chief Justice Beasley in *Ryder* v. *Wilson's Executors*, (1879), 41 N. J. Law 9, in which he stated (at *p. 11*): "The decisions of the courts, so far as my research has extended, are wholly in accord on this subject, and, with one voice, they declare that when a right of action has become barred under existing laws, the right to rely upon the statutory defence is a vested right, that cannot be rescinded or disturbed by subsequent legislation. Judge Cooley, treating of this subject, in his work on Constitutional Limitations, thus states his views: 'As to the

circumstances under which a man may be said to have a vested right to a defence, it is somewhat difficult to lay down a comprehensive rule. He who has satisfied a demand, cannot have it revived against him; and he who has become released from a demand by the operation of the statute of limitations, is equally protected. In both cases, the right is gone, and to restore it, would be to create a new contract for the parties—a thing quite beyond the power of legislation.' *Const. Lim. 369.* And how completely the doctrine thus declared is a legitimate deduction from the authorities, will very plainly appear by a reference to the numerous cases, collected by this same author, in his note on page 368."

Two years later (1881) Justice Dixon delivering the opinion of the Court of Errors and Appeals in *Moore* v. *State*, 43 N. J. Law 203, 206, 208, remarked: "And it has been repeatedly adjudged that a statute which bars all remedy, gives a perfect title, with all its incidents. *Knox* v. *Cleveland*, 13 Wis. 249; *Moore* v. *Luce*, 29 Penna. St. 262; *Leffingwell* v. *Warren*, 2 Black (U. S.) 599; *2 Wash. Real Prop. 574; Cooley's Const. Lim. 365.*

* * * * * *

"It thus, then, appears to be settled by numerour decisions in civil causes, that when a right of action is barred by a statute of limitations, it cannot be revived by act of the legislature, and that when such a right is so barred in favor of one having possession of property, (if there be no conflicting jurisdictions,) the possessor becomes the owner of the property, with all the incidents of ownership, and his title cannot be impaired by

subsequent legislation. Whether these decisions rest upon express constitutional declarations, or upon still deeper principals, underlying all popular government is not so important to the present inquiry as is the fact that the stability of their foundation is assured."

In a dissenting opinion Justice Van Syckel nevertheless expressed the view (at *p. 247*) that: "The legislature may at will repeal all such limitation acts; but when they come to be applied to individual cases, where the limit had expired, titles and property rights acquired and vested under them, as between citizens, before the repeal, are invulnerable. Such rights survive, as individual property, when the law dies.

"The incompetency of the legislature to affect the citizen by the repeal of a limitation act upon suits or contracts, does not rest upon the ground that the statute of limitation is presumed to have entered into the contract and to have become part of it, for that would prevent an enlargement of the time of limitation before the bar attached; but it is founded upon the fact that, by the lapse of time, property rights are acquired.

"A right of action is a property right which may be sold and assigned. Therefore, after the bar has attached, an act of legislation which revives the right to sue, is an act to vest property in one at the expense of another. A statute giving or taking away a right of action, gives or takes away property. That was the case of *Ryder* v. *Wilson's Ex'rs.* in our own courts. *12 Vroom 9.*"

In 1915 Chief Justice Gummere speaking for our Court of Errors and Appeals in *Plahn* v. *Givernaud*, 85 N. J. Eq. 143, 96 Atl. Rep. 40, concerning the principle that a right which has become

vested by the expiration of time cannot thereafter be impaired by legislative enactment, added (at *p. 146*): "It is fully supported by the reasoning of Chief-Justice Beasley in the opinion delivered by him in our supreme court in *Ryder* v. *Wilson's Executors*, 41 N. J. Law 10, and by that of Mr. Justice Dixon, speaking for this court, in the case of *Moore* v. *State*, 43 N. J. Law 203, and meets with our entire approval."

Again in *Ballantine & Sons* v. *Macken*, 94 N. J. Law 502, 110 Atl. Rep. 910, our court of last resort declared (at *p. 503*): "The rule is institutional and fundamental that a party who has become released from a demand, by the operation of the statute, is protected against its revival by a change in the limitation law, the defence of the statute being considered a vested right * * *."

It may well be conjectured that Justice Bradley was advocating the doctrine of his home state of New Jersey when in his dissenting opinion in *Campbell* v. *Holt*, 115 U. S. 620, 630, 29 L. Ed. 483, 6 S. Ct. 209, he said: "Now, an exemption from a demand, or an immunity from prosecution in a suit, is as valuable to the one party as the right to the demand or to prosecute the suit is to the other. The two things are correlative, and to say that the one is protected by constitutional guaranties and that the other is not, seems to me almost an absurdity. One right is as valuable as the other. My property is as much imperiled by an action against me for money as it is by an action against me for my land or my goods. It may involve and sweep away all that I have in the world. Is not a right of defense to such an action of the greatest value to me? If it is not property in the sense of the Constitution, then we

need another amendment to that instrument. But it seems to me that there can hardly be a doubt that it is property.

"The immunity from suit which arises by operation of the Statute of Limitations is as valuable a right as the right to bring the suit itself. It is a right founded upon a wise and just policy. Statutes of limitation are not only calculated for the repose and peace of society, but to provide against the evils that arise from loss of evidence and the failing memory of witnesses. It is true that a man may plead the statute when he justly owes the debt for which he is sued; and this has led the courts to adopt strict rules of pleading and proof to be observed when the defense of the statutes is interposed. But it is, nevertheless, a right given by a just and politic law, and, when vested, is as much to be protected as any other right that a man has."

In *Campbell* v. *Holt, supra,* the Supreme Court of the United States resolved that where lapse of time has not invested a party with title to real or personal property, a state legislature, consistently with the Fourteenth Amendment, may repeal or extend a statute of limitations, even after the right of action is thereby barred, and restore to the plaintiff his remedy, thus divesting the defendant of the statutory immunity from suit. That adjudication, although since reconsidered, has not been overruled.

Realistically, statutes of limitation are legislative expressions of pragmatical public policy. Their sustenance is expediency rather than logic. The effort to give them a congenial place in a syllogistic system of law has aroused considerable diversity of rationalization in our legal philosophy.

Conclusions on Submission of Certain Legal Issues for Determination.

The courts of some states have associated all such statutes with the civil law creed of prescription and hold that they not only blow out the claim but extinguish the right itself. Others have expressed the conviction that such statutes do no more than amputate the right to resort to the courts for the enforcement of the tardy claim and that they are limitations of remedy and not efficacious either in destroying or transposing fundamental rights.

The abstract distinction between substantive rights and remedial or procedural rights is not always smoothly comprehensible. Frankly, I encounter difficulty in regarding something as an "existing right" which is wholly destitute of any remedy either for its assertion or for its invasion. Noticeably our state courts have not been submissive to the reasoning in *Campbell* v. *Holt*, which certainly they are privileged to do in construing any provision of our State Constitution. *Vide, Moore* v. *State, supra,* on p. 207; Art. 1, Par. 1, Constitutions 1844 and 1947.

And so in the consideration of the abstract question here introduced for solution, I find myself in my judicial capacity impinged between the philosophy of our own judicial precedents and the manifestly deliberate intention of the legislature to employ a sovereign power which is essentially analogous to those prerogatives embraced by what we denominate as the police power of the state. *Cf. Camfield* v. *United States,* 167 U. S. 518, 523, 524, 42 L. Ed. 260, 261, 262, 17 S. Ct. 864.

In *Trustees, &c., Public Schools* v. *The Ott & Brewer Co.*, 135 N. J. Eq. 174, 177, 37 A. 2d 832, I had reason to assert: "Broadly stated, it is a rule of universal recognition that a statute of limitation should not be construed to encircle the

government unless it is manifest from the mischief to be reached, the express language employed or by necessary implication therefrom, that the government was in the contemplation of the legislature. The doctrine is distinguished by the ancient and familiar maxim, '*Nullum tempus occurit regi.*' We are told that it probably exists, in some form, in the jurisprudence of every civilized people. It springs from the superior and pre-eminent policy to preserve public rights, revenues and property from injury and loss otherwise resulting from the inadvertence or neglect of public agents. In a representative government under which the people act only through the authority delegated to their agents, the reasons for the application of the doctrine continue to be cogent. The principle has been received with favor by our courts." *Cross* v. *Mayor, &c., of Morristown,* 18 N. J. Eq. 305; *Trustees of Public Schools* v. *City of Trenton,* 30 N. J. Eq. 667; *Jersey City* v. *Hall,* 79 N. J. Law 559, 76 Atl. Rep. 1058; *Guaranty Trust Co. of N. Y.* v. *U. S.,* 304 U. S. 126, 82 L. Ed. 1224, 58 S. Ct. 785.

But it is said with some appreciable logic that the last-mentioned principle is understood to be applicable between the state and its direct and immediate debtor or obligor, but that the claim of the state in a proceeding to escheat is entirely derivative and where as between the original debtor and creditor the debt has become extinct, nothing remains due the creditor to be captured by the state. The insistence is that if the alleged right of the state is derivative, the state can only acquire the rights of the unknown owner subject to the defense which the defendant has a vested right to plead if sued by the beneficial owner.

Conclusions on Submission of Certain Legal Issues for Determination.

Guaranty Trust Company v. *United States, supra,* based upon *King* v. *Morrall,* 6 Price 24, 146 Eng. Reports, Full Reprint, Exch. Bk. 2; *United States* v. *Buford,* 3 Peters 12, and *Lambert* v. *Taylor,* 4 B. & C. 138, 107 Eng. Reports, Full Reprint, K. B. Bk. 36.

I am, of course, requested for present purposes to assume that the claim sought to be captured by the state was already barred by limitation against suit before the passage of our escheat statute and before the institution of these proceedings.

The common law abhorred the idea that ownership of property should be in abeyance or *in nubibus,* hence in the case of the failure of ownership of personal property arose the doctrine of *bona vacantia.* I am not at all convinced that *under the common law* the doctrine extended to personal property of which the owner was merely unknown or whose whereabouts was unknown. *Holdsworth, A History of English Law,* 2d ed. 495, 496. I believe the doctrine to have been confined to personalty to which no one was lawfully entitled or which no one was legally capable of receiving by succession. The power, modernly recognized, to escheat personal property which appears evidentially to have been abandoned or unclaimed by its owner, is a creature of legislation enacted in the exercise of the governmental police power. *Vide, Illinois Bell Telephone Co.* v. *Slattery* (C. C. A. 7th, 1939), 102 F. 2d 58; *Re Montello Salt Co., supra; "Bona Vacantia,"* by F. A. Enever. And so it would appear that the state had no common law proprietary interest in the so-called abandoned and unclaimed personal property and no statutory claim thereto until the passage of the enactment here implicated.

Conclusions on Submission of Certain Legal Issues for Determination.

Former Vice Chancellor Fielder had in contemplation the interposition of the statute of limitations in escheat proceedings in his consideration of *State* v. *Commercial Trust Co. of N. J.*, 139 N. J. Eq. 12, 18, 49 A. 2d 680. He alluded to the possibility that the liability of the defendant may have been terminated by the statute of limitations.

The relatively few decisions elsewhere concerning the potentially or ascendency of the defense of the statute of limitations invoked by the possessor of the personal property in escheat proceedings are all in jurisdictions in which, like Pennsylvania, the long-established and adopted conception is that statutes of limitation supply only a procedural limitation and do not embrace substantive rights. *Vide, In re Philadelphia Electric Co., supra.*

Obviously, the decision in *Chase Securities Corp.* v. *Donaldson*, 325 U. S. 304, 89 L. Ed. 1628, 65 S. Ct. 1137, rests upon the same hypothesis. It appropriately follows the path made by the decision in *Campbell* v. *Holt*, but manifestly our state courts of highest authority have not done so. Indeed, in *Ballantine & Sons* v. *Macken*, *supra*, our Court of Errors and Appeals, notwithstanding the citation of the decision in *Campbell* v. *Holt*, nonetheless resolved that the defense of the statute of limitations should in our state be regarded as a vested right, notwithstanding the fact that tangible property is not involved. Accord, *34 Am. Jur. 39, § 35.*

I am therefore constrained to conclude that where a right of action has become barred under the provisions of a statute of limitations, the statutory defense is in the existing law of this

state a vested right. In declaring it to be our present law, I mean I cannot help believing it to be so. I am not insensible to the touch of the legislative object sought to be attained for the financial betterment of the state which may be in some degree thereby abridged. Nevertheless I cannot with judicial propriety in this trial court ignore the fountains of our domestic law or attempt to hoe out the precedents which with the approbation of a lengthy span of time have been allowed to take firm root. Let my conviction of the law be confirmed or denied by those who are better equipped in the judicial function.

However, what does my present declaratory opinion anent the abstract point portend in the way of a final judgment in these cases? The vital issues will depend upon the substratum of fact in each proceeding. At what time and upon what event did the statute of limitations begin to toll in the given case, or has it not yet tolled, or was the relationship one of trust to which the statute is not to be rigidly applied in equity? For example, in what manner, if at all, is the statute of limitations to be applied to unclaimed wages and salaries, commercial bank checks, unpaid certified checks, undemanded debenture coupons, balances of Liberty Loan subscriptions, and dividends on capital stock?

Those diversified issues as well as those relating to the situs of the *res* and to the place of residence of the reputed owner are not practicably susceptible to abstract predeterminations. It is not the function of a court to supply answers to a book of hypothetical riddles.

Conclusions on Submission of Certain Legal Issues for Determination.

It may be informative for me to make some comment upon the requisites of the notice to be published in conformity with the probable intent and interpretation of *R. S. 2:53-21, N. J. S. A.*

Frankly, I regard the impoverished provisions pertaining to the notice to be given as an infirmity in the act, but not a mortal one. Viewed in its entirety the statute does afford a claimant a day in court. It also authorizes resort to service by publication. Due process requires such a notice to be reasonably adequate in its information and publication to safeguard the right comprehended by the Constitution. *Anderson National Bank* v. *Luckett, supra; Security Savings Bank* v. *California, supra; Hyman* v. *Muller,* 62 A. 2d 221.

I accordingly recommend to the Department of Law that in addition to "a summary of the order designating the time and place of hearing," the notice should also contain the names and last-known addresses, and amounts of money or character of property belonging to any such person or for whose benefit it is held. See *Purdon's Pa. Stat. Ann. Title 27, § 438.*

Order Fixing Time and Place of Final Hearing.

(Filed March 21, 1949.)

AND NOW, this 21st day of March, 1949, upon motion of Emerson Richards, Deputy Attorney General of the State of New Jersey and Attorney for petitioner,

IT IS ORDERED that a hearing upon the petition heretofore filed in this cause be fixed for the 27th day of April, 1949, at 10:00 o'clock A. M., at the Court Room, State House Annex, Trenton, New Jersey, and

IT IS FURTHER ORDERED that notice of the time and place of final hearing be given by petitioner, in accordance with the provisions of R. S. 2:53-21, by advertising in a newspaper of general circulation in Mercer County once a week for three (3) successive weeks, addressed to and containing the last known names and addresses of the persons or corporations apparently having unclaimed beneficial interest in, or ownership of, the personal property sought to be adjudged to escheat to the State in this cause, and directing that any of the said persons or corporations or any other person or corporation claiming a beneficial interest in, or ownership of, the personal property or any part of the personal property mentioned in the petition, shall file with the Court his or its claim in writing, at least five (5) days prior to the date fixed for the hearing, PROVIDED HOWEVER, that in the event the value of the personal property of any one apparent owner is less than Fifty ($50) Dollars, the advertisement need not contain the name or address of such person or corporation.

S/ WILFRED H. JAYNE,
Judge, S. C.

Order of Substitution.

(Filed March 25, 1949.)

It is on this 23rd day of March, 1949, ORDERED that Theodore D. Parsons, Attorney General of New Jersey, be and is hereby substituted for Walter D. Van Riper whose name appears as Attorney General of New Jersey in papers heretofore filed in the above entitled cause.

BE IT FURTHER ORDERED that in any other matter now pending before this Court in the application of the State to escheat monies and personal property, that the name of Theodore D. Parsons be substituted for and instead of Walter D. Van Riper as Attorney General of New Jersey and as Attorney for the plaintiff in any such Escheat matter.

WILFRED H. JAYNE,
J. S. C.

Affidavit of Publication.

(Filed April 20, 1949.)

STATE OF NEW JERSEY,
MERCER COUNTY, } ss.

SUPERIOR COURT OF NEW JERSEY,
CHANCERY DIVISION
MERCER COUNTY, DOCKET 169/14

THE STATE OF NEW JERSEY, by Theodore D. Parsons, Attorney General of New Jersey, Plaintiff, *vs.* STANDARD OIL COMPANY, Defendant.

Civil Action

NOTICE OF ORDER FIXING TIME AND PLACE OF HEARING.

Notice is hereby given to the persons named below, and to any other person or corporation claiming a beneficial interest in or ownership of, the personal property described below, that the Superior Court of New Jersey, Chancery Division, has fixed a date for final hearing for Wednesday, the 27th day of April, 1949 at 10 o'clock A. M., in the Court Room, State House Annex, Trenton, New Jersey, on the petition for escheat to the State of New Jersey of moneys and personal property, consisting of shares of stock of the above-named company, dividends declared upon the shares of stock of the said company, bond and debentures issued by the said company, interest and coupons on bonds and debentures issued by the said company, deposits made with the said company on account of liberty bond subscriptions, unpaid wages and other personal property held by, in the possession of or owing by the said com-

pany, the owners or beneficial owners of, or persons entitled to, such personal property having been and having remained unknown for the period of fourteen (14) successive years prior to the filing of said petition, or the whereabouts of such former owners or beneficial owners, or persons entitled, having been and having remained unknown for the period of fourteen (14) successive years prior to the filing of the said petition, or such property having remained unclaimed for the period of fourteen (14) successive years prior to the filing of the said petition, and including the following:

Joseph F. Cormore
Rm. 912, 1 Exchange Place, N. Y. C.
Unclaimed Dividends $37.50

Arturo Fernandez
Calle 56 No. 486 Merida, Yuc., Mexico
Unclaimed Dividends $66.15
and 4 shares Common stock

Mrs. Eleanor C. Hildebrand
c/o Union & Planters Bank & Trust Co.,
Memphis, Tenn.
Unclaimed Dividends $37.50

Albert J. Kalmary
212 Freeman St., N. Y. C.
Unclaimed Dividends $25.00

Robert E. L. Night, Jr.
c/o American Exchange National Bank,
Dallas, Texas
Unclaimed Dividends $50.00

Richard C. Kroggel
149 15th St., Wheeling, Va.
Unclaimed Dividends $25.00

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Mrs. Janice A. Patterson
1673 Columbia Rd., Wash., D. C.
Unclaimed Dividends $36.34

Joseph B. Webster
325 Lake St., River Forest, Ill.
Unclaimed Dividends $37.47
and 3 shares Common stock

Mrs. Emma Westenhaver
Logan, Ohio
Unclaimed Dividends $25.00

Mrs. Elizabeth A. Donovan Duffley
Hotel Biltmore, 43rd St. &
Madison Ave., N. Y. C.
Unclaimed Dividends $52.50

Mrs. Anne W. Geigerman
Sherman Square Hotel, Broadway
& 70th St., N. Y. C.
Unclaimed Dividends $43.75

Jacob J. Hawes
101 E. 41st St., Kansas City, Mo.
Unclaimed Dividends $35.00

Miss Frances E. Beaudett
86 Woodside Terrace, Springfield, Mass.
1 share Common stock
Unclaimed Dividends $7.47

Mrs. Christina Bolton
106 Bogard St., Charleston, S. C.
1 share Common stock
Unclaimed Dividends $15.27

Douglas Clark
648 Maple Avenue, Elizabeth, N. J.
1 share Common stock
Unclaimed Dividends $4.72

Affidavit of Publication.

Eugene Denos
342 W. 22nd St., N. Y. C.
3 shares Common stock
Unclaimed Dividends $11.17

John P. Hale
15 Claremont Ave., N. Y. C.
5 shares Common stock
Unclaimed Dividends $4.87

Walter E. Johnson
36 Irving St., West Springfield, Mass.
1 share Common stock
Unclaimed Dividends $11.50

Leopold T. Sanchez
Calle De Bucarelli No. 41, Mexico
5 shares Common stock
Unclaimed Dividends $1.88

William T. Sanders
1208 Kearney Stores, Manhattan, Kan.
1 share Common stock
Unclaimed Dividends $1.22

Mrs. Agnes S. Thompson, Route 1,
Box 256, Watsonville, Calif.
1 share Common stock
Unclaimed Dividends $3.22

The said petition is on file in the Office of I. Grant Scott, Esq., Clerk of the Superior Court of New Jersey, and is open to the examination of any party in interest.

Any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the Court his claim, in writing, at least five (5) days prior to the day fixed for the hearing.

Affidavit of Publication.

Unless cause to the contrary is shown, a decree of escheat may be entered.
March 21, 1949.

EMERSON RICHARDS,
Deputy Attorney General of the
State of New Jersey,
800 Schwehm Building,
Atlantic City, N. J.

Fee $70.65 3|28; 4|4-11 Times

ALICE G. BARRY being duly sworn according to law, on her oath says that she is Bookkeeper for The Trenton Times (Inc.), publishers of The Trenton Evening Times, a newspaper printed and circulated in the City of Trenton, in the County and State aforesaid, and the deponent further states she has personal knowledge that an advertisement, of which the annexed is a true copy, was published in the issues of March 25; April 4-11, 1949.

ALICE G. BARRY

Sworn and subscribed before me
this 11th day of April, 1949.

ANN M. HOPKINS,
Notary Public for N. J.

Stipulation of Facts.

(Filed June 1, 1949.)

And now, this first day of June, 1949, it is agreed between Emerson L. Richards, Special Deputy Attorney General, Attorney for the State of New Jersey, Petitioner, and Stryker, Tams & Horner, by Josiah Stryker, Attorneys for Standard Oil Company, Defendant, that the following facts shall be made part of the record at the trial of the cause, as though established by the evidence:

1. Standard Oil Company is a body corporate organized in 1882 under the laws of the State of New Jersey, and has its registered office at 117 Main Street, Flemington, New Jersey.

2. The authorized capital stock of Standard Oil Company at the time of its incorporation was $3,000,000.00, divided into 30,000 shares of the par value of $100.00 per share.

3. The authorized capital stock of the said defendant was changed from time to time as follows:

March 19, 1892—Increase in Capital Stock from $3,000,000 to $10,000,000 divided into 70,000 shares of the par value of $100 each.

June 16, 1899—Increase in Capital Stock from $10,000,000 to $110,000,000 divided into 1,000,000 and 100,000 shares of the par value of $100 each, 100,000 shares to be preferred stock and 1,000,000 shares common stock.

August 18, 1919—Increase in Capital Stock from $110,000,000 to $200,000,000 divided into 2,000,000 shares of the par value of $100 each,

1,000,000 shares to be preferred stock and 1,000,000 shares to be common stock;

May 5, 1920—Increase in Capital Stock from $200,000,000 to $300,000,000 divided into 3,000,000 shares of the par value of $100 each, 2,000,000 shares to be preferred stock and 1,000,000 shares to be common stock.

December 20, 1920—Increase in Capital Stock from $300,000,000 to $310,000,000 divided into 2,000,000 shares of the par value of $100 each to be preferred stock and 4,400,000 shares at a par value of $25 per share to be common stock.

November 10, 1922—Increase in Capital Stock from $310,000,000 to $825,000,000 divided into 2,000,000 shares of the par value of $100 each to be preferred stock and 25,000,000 shares of the par value of $25 per share to be common stock.

June 7, 1927—Decrease in Capital Stock from $825,000,000 to $750,000,000 divided into 30,000,000 shares of the par value of $25 each, all of one class.

June 8, 1948—Increase in Capital Stock from $750,000,000 to $875,000,000 divided into 35,000,000 shares of the par value of $25 each, all of one class.

DIVIDENDS.

From time to time, dividends upon the shares of capital stock of the defendant were declared and made payable on a specified date by appropriate action of the Board of Directors.

Prior to 1918, upon the declaration of a dividend, a sufficient amount of cash to pay the said

dividend was deposited in the National City Bank in the City of New York, in a dividend disbursing account in the name of the said defendant.

Checks were then drawn by the defendant against its said account in the National City Bank, to the order of stockholders recorded as such on the records of the company, for the amount of the dividend payable on their respective shares of stock, in accordance with the aforesaid declaration of dividends.

Dividend checks for the dividends so declared were mailed the day before the date fixed by resolution of the Board of Directors for the payment thereof to stockholders of record at the addresses shown on the records of the company as the stockholders' respective addresses. The proper postage was affixed to the envelopes containing the checks so mailed, and the return address of the defendant was placed on the outside of said envelopes.

Upon endorsement and presentation of such dividend checks, the amounts thereof were paid by the National City Bank and charged against the defendant's dividend disbursing account in the said bank.

The National City Bank prepared and delivered to the defendant periodic statements as to the state of the said account of the defendant in the said bank, showing the amount paid upon all dividend checks which had been presented. These periodic statements also showed the interest due to defendant on said account, which interest was paid to defendant by a check of the bank and thereafter credited by defendant to an account on its books designated "Interest Account."

Stipulation of Facts.

The balance in the dividend account at any one time amounted to the aggregate of dividend checks which had been returned by the post office plus the aggregate of checks which had been mailed as aforesaid but which had not been returned by the post office and had not been presented for payment.

If, at the time a dividend was declared and payable, there was a balance remaining in the dividend disbursing account of the defendant, sums deposited to disburse the subsequent dividend were mingled with the balance remaining from the earlier dividend or dividends.

It was the practice of the defendant, when issuing a check for the payment of any claim against it, to record the amount of such check on the books of the defendant as paid, irrespective of whether such check was thereafter returned by the Post Office or never presented for payment. Some time after such checks were issued and not presented, the amounts thereof were credited to a bookkeeping account of the defendant "Unclaimed Bank Checks." This practice was followed with respect to dividends in the manner hereinafter described.

Prior to 1918, upon the deposit in the dividend disbursing account of the defendant in the National City Bank of the amount of the dividend to be disbursed, the entry in the general books of the defendant charged the account "Dividends Paid" with the amount of the dividend, to record the reduction in surplus effected by the dividend, and credited the account "Accounts Payable."

The credit to "Accounts Payable" was offset on the same date by an entry in the Treasurer's Department "Cash Payments" record, in which

"Accounts Payable" was charged and a general bank account of the Company was credited, i. e. reduced by the amount of the check issued to disburse the dividend.

The "Cash Payments" record was summarized at the close of each month and its contents recorded in the general books of the defendant through entries made in the Comptroller's Department. This summary included not only the check for dividends but all cash payments and all checks sent out during the month.

At the end of each year the aggregate of the amounts in the "Dividends Paid" account, i. e. the aggregate of the deposits made during the year to disburse dividends were either transferred to "Earnings" or some other profit and loss summary account, or transferred directly to a surplus account. Such amounts all ultimately found their way into the surplus account.

Unclaimed dividends were not recorded on the general books of the defendant until sums in the dividend disbursing account, corresponding to the uncashed dividend checks, were withdrawn from the said dividend disbursing account in the National City Bank by a check drawn by the Treasurer's Department, and deposited in a general bank account of the defendant.

At that time an entry was made through the "Cash Receipts" record of the Treasurer's Department, charging (increasing) "Cash in Banks" the general bank account, and crediting (increasing) "Unclaimed Dividends." At a subsequent date amounts in "Unclaimed Dividends" which remained unclaimed were taken as income by an entry charging (reducing) "Unclaimed Dividends" and crediting "Earning," as set forth in the following three paragraphs.

Stipulation of Facts.

In 1904 the defendant withdrew from the said dividend disbursing account, the sum of $1.50, corresponding to a dividend check of the same amount drawn to the order of, and mailed to, "Trustees to liquidate Standard Oil Trust," which check had never been presented for payment. This sum was then deposited in a general bank account of the defendant and the amount credited to "Unclaimed Dividends" in the same year. In 1908 the amount was transferred to "Earnings."

In 1908 the defendant withdrew from the said dividend disbursing account, the sum of $12.00, corresponding to a dividend check of the same amount drawn to the order of, and mailed to, one Louis Hineman, which check had never been presented for payment. This sum was then deposited in a general bank account of the defendant, the amount credited to "Unclaimed Dividends," and thereafter transferred to "Earnings," all in 1908.

In 1930 defendant drew a check to its own order for $97, being the balance of the dividend disbursing account at that time in the National City Bank, and closed out the account. This amount was then credited to "Unclaimed Dividends" and, thereafter, in 1938, taken into "Earnings," as aforesaid.

The defendant has no records with respect to the period prior to 1918, which show what dividend checks were returned by the post office undelivered to the addressees. The defendant's files show that returned checks were received by the Transfer Department and that an attempt was made to locate the addressees.

During this period, the Auditors compiled lists of checks delivered by the post office but never cleared. Such lists are not now available.

Stipulation of Facts.

There is no information avaliable to show whether, if a dividend check was returned by the post office and no new address was obtained, subsequent dividend checks were mailed to the same stockholder at the same address.

As shown in "Schedule A" annexed to the answer, dividends payable prior to 1918, but never claimed, amounting to $110.50, were closed out in 1908 and 1938 by a transfer to "Earnings."

"Schedule A" attached to the answer contains no details of the unclaimed dividends which were payable prior to 1918. Defendant has ascertained from its records, however, certain details of such claims, which information is set forth in "Exhibit 1" annexed to this stipulation.

Of the amount of said unpaid dividends shown in "Schedule A", $25 thereof was paid to one George E. Coleman during the year 1948 and prior to the commencement of the within proceedings. Such $25 was inadvertently included in "Schedule A" annexed to the answer and has been omitted from said "Exhibit 1" annexed to this stipulation.

In a few instances, prior to the institution of the within proceedings, persons to whom unpaid dividends constituting part of the dividends declared prior to 1918 were originally payable or their legal representatives requested payment thereof, and after being satisfied that the persons requesting such payment were the ones to whom such dividends were originally payable, or their legal representatives, the defendant paid to them the amount of such dividends.

The payments to George E. Coleman, aforesaid, were made more than 6 years after such dividends became payable. Such payments were made as a matter of Company policy for the pur-

pose of maintaining amicable relations with stockholders without any consideration of the question whether or not the claims therefor were barred by the Statute of Limitations.

The defendant always mailed checks for dividends to each stockholder of record on the day next before such dividends were payable. It never made any arrangement with any stockholder to hold any dividend for the account of any stockholder.

The unpaid dividends shown in "Schedule A" of the answer and "Exhibit 1" attached to this stipulation as having been payable prior to 1918, were due and payable more than fourteen years prior to the institution of the within proceedings and remain unpaid to the present time.

The defendant has no records which show that, with the exception of the aforementioned George S. Coleman, any stockholder listed in "Exhibit 1" attached to this stipulation as formerly entitled to dividends payable prior to 1918 has made any express demand for payment thereof.

In 1918, the Guaranty Trust Company of New York, a Corporation organized under the banking laws of the State of New York, with offices in New York, and carrying on its stock transfer and dividend disbursing activities solely within the State of New York, was appointed as transfer agent for the defendant, and the latter's stockholder lists were turned over to the said Trust Company. Thereafter, when notice of a declaration of a dividend was given by defendant to said Trust Company, the latter advised the defendant of the amount necessary to disburse the dividend, and defendant, prior to the date fixed for the payment of the dividend, deposited with the said Trust Company a sum sufficient to disburse the said dividend.

The money so deposited was mingled with the general funds of the Trust Company in the same manner as any general commercial deposit would be, and always remained so mingled.

Prior to 1942, the said Guaranty Trust Company, then drew its own checks against itself to the order of the stockholders of record of the defendant for the amount of the dividend payable on their respective shares of stock, in accordance with the aforesaid declaration of dividends. A specimen of the checks so mailed is attached hereto and marked "Exhibit 6". From 1942 to date, the dividend checks mailed by the said Trust Company have been the checks of the defendant signed by an employee of the said Trust Company who is authorized to sign such checks for the defendant.

The said dividend checks were mailed in envelopes with the name and address of said Trust Company on the outside thereof and with the proper postage affixed thereto, on the last business day preceding the date fixed by the resolution for the payment of the dividend, to the stockholders shown to be of record on the list of stockholders in the custody and possession of the Guaranty Trust Company.

When the defendant deposited with the Trust Company an amount sufficient to disburse the dividend, it charged a "Dividends Paid" account on its general ledger with such amount, and credited "Accounts Payable" accordingly. The credit to "Accounts Payable" was offset on the same date by an entry in the Treasurer's Department "Cash Payments" record, in which "Accounts Payable" was charged and a general bank account of the defendant was credited. The amounts deposited for the payment of dividends

in each calendar year were recorded in the account "Dividends Paid".

The amounts so deposited in each annual period were ultimately recorded in the surplus accounts, though, in some instances, the aggregate of such amounts was transferred to "Earnings", representing the current year's profit and loss summary, the balance of which was in turn transferred to a surplus account.

When a deposit was made by the defendant and the checks were mailed out, a general ledger account of the Trust Company entitled "Dividend Checks Outstanding" was credited with the aggregate amount of the checks so mailed. This account was a permanent cumulative one and the aggregate of all the dividend checks of all the corporations for which the Trust Company disbursed dividends was credited to and mingled in this account. As checks were presented and paid, the said "Dividend Checks Outstanding" account on the general ledger was correspondingly debited.

About three months after any check had been returned by the post office as undelivered, it was cancelled, and the aforesaid general ledger "Dividend Checks Outstanding" account was debited with the amount thereof. At the same time this debit was made, another general ledger account of the Trust Company entitled, "Unclaimed Dividend Checks" was correspondingly credited. This latter account was also a permanent cumulative one and reflected dividend checks returned by the post office with respect to all the different dividends declared by all the corporations for which the Trust Company disbursed dividends.

It was impossible to ascertain from the foregoing "Dividend Checks Outstanding" account what portion of the balance thereof represented

checks of the Trust Company representing dividends on stock of the defendant which were outstanding but had not been presented. It was likewise impossible to ascertain from the foregoing "Unclaimed Dividend Checks" account what portion of the balance thereof represented dividend checks of the Trust Company representing dividends on stock of the defendant which had been returned by the post office as undelivered.

The bookkeeping division of the Trust Company also maintained intermediate ledger control sheets for each separate dividend declaration by each corporation for which the Trust Company disbursed dividends. These sheets were also designated "Dividend Checks Outstanding" and were opened by a credit in the amount of the deposit made by the corporation to disburse the dividend. As checks were presented and paid, the sheets were debited accordingly, at the same time the above mentioned "Dividend Checks Outstanding" account on the general ledger of the Trust Company was debited. Checks returned by the post office were likewise debited to such sheets at the same time the "Unclaimed Dividend Checks" general ledger account was credited, as aforesaid.

The records of the bookkeeping division of the Trust Company did not show or reflect what dividend checks had been returned by the post office, but only those which were outstanding.

The auditing division of the Trust Company maintained subsidiary control records with respect to each dividend payable by the defendant, which records listed the names of the stockholders of defendant to whom dividend checks were

mailed. If any such check was returned by the post office a notation thereof was made against the name of the stockholder to whom the check was mailed. If the dividend was later paid, a notation of such payment was likewise made against the name of said stockholder.

Subsidiary control records of the same nature as those kept with respect to dividend checks representing dividends on stock of the defendant, returned by the post office, were also maintained by the auditing division of the Trust Company with regard to such dividend checks which were not returned by the post office but not presented. If any check shown on these records as outstanding was thereafter presented and paid, a notation of payment was made against the name of said stockholder.

These subsidiary control records of the auditing division were maintained by the Trust Company for its own convenience and treated each dividend disbursement of dividends on stock of the defendant separately. The entries made therein were not debit or credit entries in a bookkeeping or accounting sense.

To ascertain the total of the checks for dividends on stock of the defendant which had been returned by the post office and not thereafter paid, it was necessary to consult the said auditing division's subsidiary control records set up with respect to all the different dividends declared by defendant for which the bank had mailed its checks as aforesaid.

During the years when it was customary for banks to pay interest on commercial checking accounts, the Trust Company paid to the defendant interest on all its commercial accounts, in-

cluding the balance of funds deposited by the defendant with the bank to disburse dividends, which balance represented the aggregate of unpaid dividend checks. The check of the bank for the interest due accompanied such statement. The amount of the check was then credited by defendant to its "Interest Account".

The defendant has not recalled from the Trust Company the amounts of dividend checks which have remained unpaid.

Accordingly, dividends shown on the records of the Trust Company as unpaid were not closed out by transmittal of the amount thereof to the defendant.

As heretofore stated, if a check was returned by the post office but the dividend later paid, it was closed out by a debit to the said mingled "Unclaimed Dividend Checks" account on the general ledger of the Trust Company, and a notation of payment was made on the subsidiary control records maintained by the auditing division of the Trust Company.

If a check which was reflected on the Trust Company's records as not returned by the post office but unpresented was thereafter paid, it was closed out by a debit to the said mingled "Dividend Checks Outstanding" account on the general ledger of the Trust Company, and a notation of payment was made on the subsidiary control records maintained by the auditing division of the Trust Company. Any such payment of a check previously reflected as unpresented was also closed out by a debit to the intermediate ledger control sheets maintained by the bookkeeping division as aforesaid.

Stipulation of Facts.

From time to time, prior to the institution of the within proceedings, persons to whom unpaid dividends constituting part of the dividends declared prior to July 27, 1934 were originally payable, or their legal representatives, requested payment of such dividends, and after being satisfied that the persons requesting such payment were the ones to whom such dividends were originally payable, or their legal representatives, the said Guaranty Trust Company paid to them the amount of such dividends.

Some of these payments were made six years or more subsequent to the date when the dividends became due and payable. Such payments were made as a matter of Company policy for the purpose of maintaining amicable relations with stockholders without any consideration of the question whether or not the claims therefor were barred by the Statute of Limitations.

The said Guaranty Trust Company always mailed checks for dividends to each stockholder of record on the day next before such dividends were payable. It never made any arrangement with any stockholder or with the Standard Oil Company to hold any dividend for the account of any stockholder.

Where a dividend check was returned by the post office, or if not so returned was not deposited, and no new address was obtained, the number of checks which were thereafter mailed by the Trust Company to the same address depended upon the particular circumstances.

In such cases, the Trust Company always made some attempt to locate the stockholder.

"Schedule A", attached to defendant's answer filed in the within proceedings, includes a list of dividends constituting part of the dividends de-

clared and made payable between January 1, 1918 and January 1, 1934, which dividends so listed remain unpaid to the time of the institution of the within proceedings, together with the names and last known addresses of the persons shown on the records of the said Trust Company as the owners, at the time the said dividends became payable, of the shares of stock upon which such dividends were payable.

Subsequent to the service and filing of defendant's answer in the within proceedings, the said Guaranty Trust Company discovered a record of other dividends of defendant payable between 1918 and July 27, 1934, which have never been claimed.

The said Trust Company has prepared a revised list of such unclaimed dividends payable within this period, which list embodies the above-mentioned unclaimed dividends shown in Schedule A of the answer and those recently discovered by the said Trust Company.

This list shows, with respect to each stockholder, the amount of unclaimed dividends which are attributable to dividend checks returned by the post office, and the amount attributable to checks not returned by the post office but never presented for payment. The latter are designated on this list as "outstanding".

The said revised list is annexed to this stipulation and marked "Exhibit 2". It supersedes and takes the place of the above mentioned list of similar unclaimed dividends shown in "Schedule A" annexed to the answer, and the latter list is to be disregarded.

The dividends so listed in "Exhibit 2" were due and payable more than fourteen years prior to the institution of the within proceedings, and remain unclaimed to the present time.

Stipulation of Facts.

The stockholders so listed in "Exhibit 2" have not, from the date the dividends became payable to the present time, made any express demand for the payment of the amount of the dividends shown opposite their respective names in "Exhibit 2".

All the persons shown in "Exhibit 2" have either, (1) transferred of record prior to July 27, 1934 the shares of stock upon which such dividends were payable, or (2) received and cashed subsequent to July 27, 1934, a check or checks for dividends payable on such stock after such date, which checks were mailed to the stockholder's address of record.

SHARES OF STOCK.

"Schedule A" attached to the answer includes a list of eleven individuals shown on the records kept by the Guaranty Trust Company, as the present record owners of the number of shares of stock of defendant set opposite their names.

This list also includes claims for unpaid dividends which arose subsequent to July 27, 1934, together with certain other unpaid claims flowing out of the ownership of the said stock, which other unpaid claims also arose subsequent to July 27, 1934.

The said individuals have been the owners of record of such shares of stock for more than 14 years prior to the institution of the within proceedings.

The said individuals are among those shown elsewhere in "Schedule A" as having failed to claim dividends of the defendant payable more than 14 years prior to the commencement of the within proceedings.

The number of shares of stock of defendant standing of record in the names of these individ-

uals, together with the unpaid dividends and other claims which arose subsequent to July 27, 1934, were reported in "Schedule A" because at that time the defendant did not know that such individuals had received any checks for dividends payable within the 14 years immediately prior to the commencement of these proceedings.

Subsequent to the service and filing of the answer of defendant in the within proceedings, the said Trust Company has reexamined its records with respect to the foregoing stockholders.

It has discovered that certain of these stockholders have either received and cashed subsequent to July 27, 1934, a check or checks for dividends payable after such date, or presumably have received, subsequent to July 27, 1934, a check or checks for dividends of the defendant payable after that date, which were mailed to the addresses of record of such stockholders in envelopes having the proper postage affixed thereto and bearing the return address of the Guaranty Trust Company, but which envelopes have never been returned by the post office.

The said Trust Company has accordingly prepared a revised list of such stockholders in which it has omitted any reference to those individuals who, as aforesaid, have either received or cashed, subsequent to July 27, 1934, checks for dividends of the defendant payable after that date.

The said revised list is annexed to this stipulation and marked "Exhibit 3". It supersedes and takes the place of the similar list shown in "Schedule A" of the answer, and the latter list is to be disregarded.

"Exhibit 3" annexed to this stipulation also shows dividends of the defendant payable to the

above mentioned stockholders prior to July 27, 1934, which have never been claimed. Dividend checks not returned by the post office but never presented for payment have been designated "outstanding".

The said individuals in whose names the foregoing shares of stock are listed on the records kept by the said Guaranty Trust Company have failed to receive checks for dividends payable on such stock for more than 14 years immediately prior to the institution of the within proceedings and up to the present time. They are the only present stockholders of record of defendant who fall within this class.

Neither the defendant nor said Trust Company knows any address of such individuals other than the addresses shown in "Exhibit 3" as the last known addresses of such persons.

Neither the defendant nor the Trust Company has custody or possession of any certificate of the shares of stock set forth in "Exhibit 3", nor do they have any knowledge with respect to whether the individuals shown in "Exhibit 3" as the record owners thereof are in fact the present owners of such stock.

When a notice to a stockholder was mailed by the defendant or the Trust Company, but returned undelivered, subsequent notices to such stockholder were mailed to the same address until a new address was obtained.

UNPAID WAGES AND SALARIES.

In the conduct of its business, the defendant employed various persons in the State of New Jersey and elsewhere at varying rates of wages.

Stipulation of Facts.

Prior to 1924 or 1925, wages and salaries were paid in cash. The money was withdrawn from a general commercial bank account, and the mechanics of payment were handled by a payroll master. Where any wages or salaries were unclaimed, the payroll master, after a short time, redeposited the money in the bank account from which it had been withdrawn and an account on the books of the defendant entitled "Unclaimed Wages" was credited (increased) with the amount thereof.

From 1924 or 1925 to 1927, each refinery of the defendant kept its own payroll account in a local bank, upon which checks were drawn to meet wages and salaries. A short time after any such checks were unclaimed, the aggregate amount of such unclaimed checks was withdrawn from the payroll account and deposited in a general bank account. The said "Unclaimed Wages" account of the defendant was then credited (increased).

A number of such persons whose services to the defendant were rendered in the State of New Jersey, under such employment, did not receive certain of the wages or salaries payable to them by reason of their services to the defendant because they ceased to be employed by the defendant without claiming such unpaid wages.

Such employees were hired either by the day, week or month and all ceased to be employed by the defendant prior to July 27, 1934.

"Schedule A" attached to the defendant's answer, sets forth aggregate amounts of unpaid wages and salaries of persons whose services to the defendant were rendered in the State of New Jersey during the years 1904 to 1927, inclusive. These are the only unpaid wages and salaries of

such a character that the defendant has any record of. The defendant had no employees in the State of New Jersey after 1927.

As far as the defendant's records show, none of the individuals to whom such unclaimed wages or salaries were payable has made any express demand for payment thereof from the time such wages or salaries were payable.

The books and records of the defendant do not disclose the names or addresses of the individuals to whom such wages or salaries were payable.

The defendant has not heard from such individuals from more than 14 years prior to the institution of the within proceedings, to date.

The said wages and salaries were due and payable more than 14 years prior to the institution of the within proceedings. It was the invariable practice of the defendant to pay wages and salaries as soon as they became due and payable, and checks or cash in payment thereof were always available to the employees on the day the wages and salaries were payable.

The amounts of the said unclaimed wages and salaries were all transferred by defendant on its books of account from "Unclaimed Wages" to Profit and Loss within a year or two from the date when they were payable. When such transfer was made the "Unclaimed Wages" account was debited (decreased) with the amount so transferred. As many items, including unpaid wages were transferred to Profit and Loss, it is not now possible to identify in the Profit and Loss accounts the amounts so transferred.

Stipulation of Facts.

UNCLAIMED BALANCES OF LIBERTY LOAN SUBSCRIPTIONS.

During the years 1917, 1918 and 1919, the defendant afforded to its employees the opportunity of subscribing to Liberty Bonds in various amounts, and after having received such subscriptions from its employees, defendant purchased in its own name Liberty Bonds in an amount sufficient to cover the subscriptions.

The defendant then deducted from the weekly wages or salaries of the employees who subscribed to Liberty Bonds a portion of their weekly wages or salaries, upon the understanding and agreement that when the aggregate of such deductions equalled the face amount of Liberty Bonds to which such employee subscribed, the amount so deducted would be considered as payment for such Liberty Bonds, and Liberty Bonds in the amount subscribed would be delivered to the said employee.

The amounts deducted pursuant to this arrangement were not kept in a separate bank account, but the defendant kept records showing the respective amounts withheld from the wages or salaries of each employee who subscribed to the plan, and, by means of a separate bookkkeeping account, showed the aggregate of the amounts so deducted.

In each case where the total of the amount so deducted equalled the amount of Liberty Bonds to which the employee subscribed, the defendant delivered Liberty Bonds to such employee in an amount equal to that to which he subscribed, and applied the amount deducted from the wages of the employee as payment for the said Liberty Bonds.

No employee subscribed or was entitled to any particular bond, but only to Liberty Bonds of the face amount of his subscription, nor did the defendant's records show any particular bond as held for any particular employee.

Until the total of the deductions from the wages or salaries of such employee reached the amount of his Liberty Bond Subscription, he was not entitled to have defendant deliver any Liberty Bond or Bonds to him.

In certain instances, the total amount of deductions with respect to an employee did not equal the face amount of the Liberty Bonds subscribed to by him.

In such cases, the defendant did not deliver any Liberty Bonds to the said employee.

In the instances where the defendant did not deliver any Liberty Bonds to an employee by reason of the fact that the total deductions from the wages or salary of said employee did not equal the amount of his subscription, he was entitled to be paid a sum equal to the amount deducted from such wages or salary.

In such cases, the defendant paid to those employees, or former employees, whom it could locate, a sum equal to the amounts deducted from their respective wages and salaries.

As to the employees whom the defendant could not locate by reason of the termination of their employment with defendant, the latter was unable to pay to such employees the sums equal to the amount of the deductions from their respective wages and salaries.

It was part of the arrangement and understood by both defendant and those of its employees who subscribed to the Plan, that it was a necessary

prerequisite to the right of any person to take advantage of the Plan that he be and continue to be an employee of defendant.

It was also part of the arrangement and understood by both defendant and those of its employees who subscribed to the Plan, that whenever any employee who had so subscribed thereafter ceased to be employed by defendant without a sufficient amount having been deducted from his wages or salary to equal the face amount of his subscription, he was, at the time of the termination of such employment, entitled to receive from defendant a sum equal to the aggregate amount deducted from such wages or salary, and defendant, at the same time, was obligated to pay such sum to the employee so ceasing to be employed by defendant.

Where any person who had subscribed to the plan was entitled to be repaid the amounts deducted from his wages or salary, but could not be located by defendant, the latter credited a bookkeeping account entitled, "Unclaimed Liberty Loan Subscriptions" with the amount thereof. No separate bank account was set up by defendant with respect to any of these unclaimed amounts, and defendant never paid or credited interest on any amounts withheld or unclaimed.

"Schedule A", attached to the defendant's answer, sets forth the aggregate of amounts deducted from the wages and salaries of certain employees pursuant to the aforementioned Plan, which amounts defendant was obligated to repay such employees because they ceased to be employed by the defendant.

The amounts so shown in "Schedule A" have not been paid to such persons because defendant was unable to locate them.

All of such persons ceased to be employed by the defendant prior to 1921.

"Schedule A" does not set forth any details with respect to such unpaid amounts, but defendant has recently ascertained from its records the names of the persons from whose wages or salaries the amounts set forth in "Schedule A" were deducted, together with other details of the claims and such information is set forth in "Exhibit 4" annexed to this stipulation.

The defendant has no record of any express demand by such persons for payment of the amounts set opposite their names on said "Exhibit 4" annexed to this stipulation.

Persons similarly situated have made demands in the past for amounts deducted from their wages or salaries and the defendant paid them. No payments were made six years or more subsequent to the date when the person was entitled to receive the same and the defendant obligated to pay.

The defendant has not heard from the persons listed in "Exhibit 4" annexed to this stipulation since more than 14 years prior to the institution of the within proceedings.

The amounts set opposite such persons' names in "Exhibit 4" annexed to this stipulation have been unclaimed for more than 14 years prior to the institution of the within proceedings and remain unclaimed to the present time.

The defendant transferred all of said amounts to its "Profit and Loss" account prior to 1934.

Stipulation of Facts.

UNCLAIMED COMMERCIAL BANK CHECKS.

From time to time prior to the institution of the within proceedings, the defendant, in the course of the transaction of its business, issued checks in payment of commercial claims against it. "Schedule A" sets forth the aggregate amount of $3,319.96 of such checks issued by the defendant prior to January 1, 1934, but which never cleared through the banks against which they were drawn. These checks were either delivered to the payees by hand or mailed to their address last known to defendant, with the proper postage affixed to the envelopes containing such checks, and the return address placed on the outside of such envelopes.

These checks were drawn on commercial bank accounts of the defendant and the fact that they never cleared such banks was merely reflected in the balance of such commercial bank accounts. A short time after they were issued and not presented, the amounts thereof were credited to a bookkeeping account of the defendant entitled, "Unclaimed Bank Checks". Within a year or two thereafter the amounts were taken into "Profit and Loss".

"Schedule A" attached to the answer does not set forth the names or last known addresses of the persons to whom such checks were issued, or who had been entitled to make claim for the amount thereof. Defendant, however, has ascertained from its records the last known addresses of most of the payees of such checks, together with other details of the claims, and such information is set forth in "Exhibit 5" annexed to this stipulation.

Of the aggregate amount of $3,319.96 of such checks referred to in the answer and in "Exhibit 5" annexed to this stipulation, $2852.91 thereof

was for the purchase of crude oil from persons, firms or corporations then resident in states other than New Jersey. The balance, or $467.05 thereof, was for either goods sold and delivered or services rendered, to defendant.

As far as the records of defendant show, the last known addresses of all the payees of such checks were outside the State of New Jersey.

The defendant has also discovered a record of checks in the amount $5241.66, drawn on the Seaboard National Bank of New York to individuals and companies in the oil producing regions of the United States in the period from 1887 to 1907 but which checks never cleared through the said bank against which they were drawn. No details of these claims are available but memoranda in the possession of the defendant show that the amounts thereof were taken into income in the period from 1891 to 1910.

The parties hereto agree that such checks, and the transactions with respect to which they were issued, were of the same character as the checks shown in "Schedule A" of the answer and "Exhibit 5" of this stipulation, as issued for the purchase of crude oil.

None of the foregoing unclaimed checks have been presented for payment for more than 14 years prior to the institution of the within proceedings, and up to the present time. The defendant has not heard from any of the payees thereof for more than 14 years prior to the institution of the within proceedings.

DEBENTURE COUPONS.

On or about December 15, 1926, the defendant issued $120,000,000.00 of 20 year 5% debentures,

callable upon 60 days' notice on any interest date between August 1, 1931 and August 1, 1936, at $102. plus accrued interest.

The debentures were issued in registered and coupon form. The debentures in coupon form were registerable as to principle but unless registered at the request of the purchaser were payable to the bearer thereof and were transferable by delivery. The registered debentures without coupons were in the denomination of $1,000 or certain multiples thereof. The coupon debentures were each in the denomination of $1,000 with coupons attached. The coupons were, nevertheless, in bearer form and detachable at will.

The defendant called $30,000,000.00 of said debentures for payment on February 1, 1932, and the remainder thereof, $90,000,000.00, for payment on February 1, 1935, giving the prescribed 60 days' notice.

All of the debentures called for payment on February 1, 1932 have been paid.

Certain of the unmatured coupons for interest on the said debentures called for payment on February 1, 1932, were not attached to the debentures at the time of presentation for payment.

Upon presentation of the debentures from which such unmatured coupons had been detached, the defendant's paying agent, J. P. Morgan & Co. of New York, with offices in the City of New York, paid to the person presenting such debentures the call value thereof, less a sum equal to the face value of the detached unmatured coupons.

The said paying agent recorded the names of the persons presenting the debentures called for payment on February 1, 1932, but the records of such names have been destroyed pursuant to the established practice of the said paying agent.

Stipulation of Facts.

Neither the defendant nor its said paying agent knew the names or addresses of the persons holding such detached unmatured coupons at the time the debentures were presented and have not had any knowledge as to such names or addresses to the present time.

Subsequent to the presentation of the debentures called for payment on February 1, 1932, certain persons have presented coupons which were detached from such debentures at the time the latter were presented for payment. The persons so presenting such coupons were paid the amount thereof by the said payir ; agent.

At least two of these payments were made six years or more subsequent to the maturity date of such detached coupons. Such payments were made as a matter of Company policy without any consideration of the question whether or not the claims therefor were barred by the Statute of Limitations.

"Schedule A", attached to the defendant's answer sets forth the amount deducted from the call value of the debentures called for payment on February 1, 1932, such amount deducted being equal to the aggregate amount of the unmatured coupons detached from such debentures but unclaimed to date. The maturity date of such detached unmatured coupons was August 1, 1932.

The holders of the said detached unmatured coupons were never known to the defendant.

The amounts shown in "Schedule A" as having been deducted from the call value of the said debentures have been unclaimed for more than 14 years prior to the institution of the within proceedings, and remain unclaimed to the present time.

Certain of the coupons of the debentures called for payment on February 1, 1932 matured on or prior to that date, and certain of the coupons of the debentures called for payment on February 1, 1935, matured on or prior to that date, but these certain coupons have never been presented for payment.

The defendant does not know the names or addresses of the persons holding such matured coupons.

"Schedule A" attached to defendant's answer sets forth the aggregate amount of such matured coupons which have never been presented for payment.

The defendant has not heard from any person with respect to such matured coupons for more than 14 years prior to the institution of the within proceedings, and to the present time.

Subsequent to the said call dates of February 1, 1932 and February 1, 1934, certain persons have presented previously unpresented and matured coupons and have been paid the amount thereof by the said paying agent. The said paying agent has not refused to pay any such person the amount of the coupons so presented.

Some of these payments were made six years or more subsequent to the maturity date of such coupons. Such payments were made as a matter of Company policy without any consideration of the question whether or not the claims therefor were barred by the Statute of Limitations.

Some of the matured coupons set forth in "Schedule A" annexed to the defendant's answer, matured prior to July 27, 1934, and payment thereof has not been claimed for more than 14 years prior to the institution of the within pro-

ceedings, and they remain unclaimed to the present time.

Others of the matured coupons referred to in said "Schedule A" may have matured subsequent to July 27, 1934, and if so, they have not remained unclaimed for more than 14 years prior to the institution of the within proceedings.

The defendant is unable to allocate that portion of the aggregate amount shown in "Schedule A" which is attributable to coupons which matured subsequent to July 27, 1934.

Those of the $2925 of unclaimed matured coupons set forth in Schedule A which were originally attached to the $30,000,000 of debentures called on February 1, 1932, were all detached prior to that date.

Of the $90,000,000 of debentures called on February 1, 1935, all have been paid except six, having a face value of $6,000.

Those of the $2925 of unclaimed matured coupons set forth in Schedule A which were originally attached to the $90,000,000 of debentures called on February 1, 1935, were all detached prior to that date except those which might have been then still attached to the said $6,000 of presently outstanding debentures.

Even if none of the matured coupons on such six presently outstanding debentures had been detached therefrom on February 1, 1935, and have never since been detached, the aggregate amount of such coupons would only be $2400, and $300 of this amount would be attributable to coupons which matured subsequent to July 27, 1934, and which have been unclaimed for less than 14 years prior to the commencement of the within proceedings.

The foregoing represents everything defendant has been able to ascertain with respect to the unclaimed coupons shown in Schedule A annexed to its answer.

SITUS.

Since 1927 the defendant has had no office or place of business within New Jersey, except its registered office located in the office of George K. Large, Esq., at Flemington, New Jersey. The defendant's stockholders' meetings are held in Flemington.

Since 1927 the defendant has had no tangible property within New Jersey other than its stock and transfer books which are kept in its aforementioned registered office.

Since 1927 the defendant's executive offices have been located in New York City. The defendant is suable in the State of New York and is qualified to do business in Maryland and the Canal Zone.

CONDITION.

This stipulation does not include an agreement as to the materiality of the facts above stated. Either party may object to the materiality or relevance of any of the facts above stated.

EMERSON RICHARDS
Special Deputy Attorney General for the State of New Jersey

STRYKER, TAMS & HORNER

By JOSIAH STRYKER
A Member of the Firm
Attorney for Standard Oil Company

Exhibit 1

Available details with respect to checks for dividends payable prior to 1918, mailed to last known addresses of stockholders but never cleared through the bank against which they were drawn. See Schedule A.

When Dividend Payable	Check Number	Stockholder	Amount
12/16/04	Trustees to liquidate	Standard Oil Trust	$ 1.50
9/15/05	" " "	Louis Hineman	12.00
12/15/11	AW5907	John S. Williams	7.00
3/15/12	AX1105	George E. Coleman	5.00
3/15/12	AX5664	John S. Williams	5.00
6/15/12	AY5592	John S. Williams	5.00
9/16/12	AZ5619	John S. Williams	5.00
12/15/13	BE1165	George E. Coleman	5.00
12/15/15	BM2552	O. H. Hahn	10.00
3/15/16	BN2577	O. H. Hahn	10.00
9/15/16	BP1281	George E. Coleman	5.00
3/16/17	BR1328	George E. Coleman	5.00
6/15/17	BS1318	George E. Coleman	5.00
9/15/17	BT1329	George E. Coleman	5.00
		Total	$85.50

Exhibit 2.

Checks for Dividends Payable Between 1918 and July 27, 1934, Mailed to Last Known Addresses of Stock Holders and Returned by Post Office, and Checks for Like Dividends Mailed to Last Known Addresses of Stock Holders and Not Returned by Post Office But Not Presented for Payment

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Abdurrahman c/o Wed. Kel. Pet. Miu. Welevreden Batavia Java D. E. I.	.50		.30
Frank R. Acosta c/o The First National Bank of El Dorado El Dorado Arkansas	4.50		4.50
Acsons Mfg. Co. 59 Grand St. New York N. Y.		2.50	2.50
Andrew F. Adamson c/o S. O. Co. S. A. Arg. Sua Argentina		1.42	1.42
John Gillies Adamson c/o International Petroleum Co. 56 Church St. Toronto Ont. Canada		5.00	5.00
Francis Adkins 11 E. Brandywine Ave. Claymont Del.		2.37	2.37
Emil Adler 25 Broad St. New York N. Y.		.25	.25
Mr. August Adrian c/o Y. M. C. A. Hanson Pl. Bklyn. N. Y.	.75		.75
Gaetana Affanosa 236 Hooker Pl. Port Richmond N. Y.		2.00	2.00
Pedro Aguerre Florencio Varela 1571 Gerli Fcs Providence Buenos Aires S. A.		.38	.38

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Louis Ahlfeldt 2467 Pensacola Ave. Chicago Ill.		12.50	12.50
Mellie D. Alexander White Farm Drive Asheville N. Car.		4.50	4.50
John F. Alford c/o AW & JNO E. Kilgore Staley Building Wichita Falls Tex.		5.00	5.00
Carl E. Allen 310 W. Broad St. Columbus Ohio		2.50	2.50
Chris Allerslev 225 Sheridan Blvd. Winnetka Ill.	5.00		5.00
Buford E. Almond Route 1 Alma Olka.		.38	.38
Jose M. Alonzo c/o A. E. Kielly P. O. Box 1247 Havana Cuba		2.50	2.50
Mohamed Aldanie Patjitan Jave D. E. I.		1.50	1.50
C. L. Anderson Box 1094 Shreveport La.		.76	.76
George Anderson c/o S. O. Co. Av Roque Saenz Pena 567 Buenos Aires Argentina		3.00	3.00
Mr. Gerard J. Andrews 2160 Webster Ave. New York N. Y.		.25	.25
Felix Ansermuz 107 S. Ramson Ave. Margate N. J.		.50	.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
George D. Anthony 401 Patcong Ave. Lindwood N. J.	2.00		2.00
Miss Flo Armentreust Frankfort Ky.		.25	.25
Sidney R. Arnold 107 Laburnum Grove Portsmith England	.50		.50
Miss Kate W. Arrington 707 Falls Road Rock Mountain N. Car.		12.50	12.50
Mrs. E. Irene Arthur 5855 Darlington Road Pittsburgh Pa.		50.00	50.00
John Artinos 204 W. 64th St. New York N. Y.		10.00	10.00
Dominick Auteri 267 Bronx Park Ave. New York N. Y.		2.50	2.50
John H. Ayres 886 Lake St. Newark N. J.		.25	.25
Mr. Chester L. Babin 1419 Texas Ave. Shreveport La.		.38	.38
Mrs. Alice Bachhuber Mayville Wisconsin		5.00	5.00
Miss Eleanor H. Baker 2337 Bancroft St. N. W. Washington D. C.		.25	.25
Miss Kathryn Jean Baker Sinclair Country Club Grounds Belleville Ill.		10.00	10.00
Tony Balboni 9 Willard Ave. West Springfield Mass.		4.75	4.75

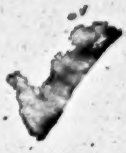
Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Eugenio Balmori Jr. Apartado 657 Tampico Mexico		3.00	3.00
Charles W. Banner Jr. 201 Banner Blvd. Greensboro N. Car.		2.50	2.50
Joseph R. Barker Box 199 Smackover Ark.		.50	.50
Emmet C. Barnes Uncas Okla.	6.38		6.38
Jose Barreda c/o S. O. Co. S. A. A. Buenos Aires Argentina		6.00	6.00
John E. Barringer Newton N. Car.		14.63	14.63
George Bashe 124 16 109th Ave. Richmond Hill L. I. N. Y.		2.50	2.50
Will Baskin 623 St. Tammany St. Baton Rouge La.		1.88	1.88
Wells T. Basset 10 Park Place Newark N. J.		23.00	23.00
Dario Bastos Marechal Floriana 276 Rio Grande Sul Brazil		4.50	4.50
Edward L. Batson 528 Commonwealth Ave. Boston Mass.		5.00	5.00
John E. Baugh c/o H. T. Austermell P. O. Box 1107 Shreveport La.	.75		.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Pierce A. Baugh c/o Franklin Fire Ins. Co. 423 Walnut St. Phila. Pa.	1.88		1.88
Miss Anna Baum 1429 Prospect Ave. Bronx N. Y.	5.00		5.00
Henry J. Baum 25 E. 77th St. New York N. Y.		5.00	5.00
Mlle Jeanne Bautherin 1 Rue Quentin Bauchart Paris 8E France		3.75	3.75
A. Irving Beach Peonville N. Y.	7.50		7.50
Shepard M. Bean 2015 Alberta Ave. Linden N. J.		7.50	7.50
James Bears Boca Grande Fla.	5.00		5.00
John Goble Bearden c/o S. O. Co. of La. Cleveland Tenn.		.50	.50
Lacey H. Beauchamp Box 997 Seminole Okla.	4.50		4.50
Miss Frances E. Beaudett 86 Woodside Terrace Springfield Mass.		7.97	7.97
Conrad Becker Redbud Ill.		2.50	2.50
Nathan Becker 2167 Crotona Ave. Bronx N. Y.	9.38		9.38
Marie Julie Beque Nee Dufan c/o Mr. R. Frey D. Esclands 19 Rue Duphot Paris France		.25	.25

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Jan F. Beijen c/o Nederlandsche Koloniale Petroleum Mij Grbrouw Petrole Post Box 109 The Hague Holland		9.50	9.50
Harold W. Beisley 4 Glenwood Ave. Charleston N. Car.		6.00	6.00
Harold W. Beisley c/o So. Co. N. J. Columbia S. Car.		3.00	3.00
Mrs. Charlotte E. Bell c/o Elec. Keppler 25 Broad St., New York N. Y.		5.63	5.63
David L. Bellot Box 997 Seminole Okla.	3.50		3.50
Roscoe E. Belt Box 981 El Dorado Okla.	1.88		1.88
Albert J. Belveal P. O. Box 623 Cushing Okla.	2.50		2.50
Pedro Bencich Restaurant Victoria Leandro St. Campama F. C. C. A. Argentine Rep.		.50	.50
Adolphe Benda c/o S. O. Co. of Argentina Buenos Aires, Argentina		15.00	15.00
Anne Parsons Bender Hudson View Garde Apts. Pinehurst Ave. & 183rd St. New York N. Y.		5.00	5.00
Edward Leonard Bennett 702 S. Laredo St. San Antonio Texas		1.50	1.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
George K. Benser 722 S. Decker Ave. Baltimore Md.		.75	.75
Edward G. Benson 40 Wall St. New York N. Y.		5.00	5.00
Manoel Da S. Bento Caixa Postal 970 Rio de Janeiro Brazil		.95	.95
Mrs. Winifred D. Bergsten 911 McLean Ave. Yonkers N. Y.		2.50	2.50
Isidro Bernedo 38 Cherry St. New York N. Y.		3.00	3.00
Angel Bertarione c/o West India Oil Co. Ave. Roque Saenz Pena 567 Buenos Aires Argentina		1.42	1.42
Mario Bertini c/o S. O. Co. of Argentina Buenos Aires Argentina		8.50	8.50
Lawrence Bertrand P. O. Box 55 Opelousas La.		.75	.75
Frank Best Apartado 657 Tampico Mexico		7.50	7.50
John W. Bethke 1056 Wenona Ave. Chicago Ill.		2.50	2.50
Cornelius Betz c/o John Conrads Market Highland Road Baton Rouge La.		.50	.50
Herman L. Bejmer c/o Wyoming Trust Co. Trust Dept. Casper Wyo.		25.00	25.00

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Jan F. Beyen c/o Ned. Kol Petr. Mij. Palembang Sumatra D. E. I.		7.80	7.80
William Beyer c/o Standard Shipping Co. 26 Broadway New York N. Y.	16.50		16.50
Mrs. May Bickner 2712 Michigan Ave. Chicago Ill.		2.50	2.50
Mrs. May Bickner Rfd. 2 Box 73 C Albuquerque N. Mex.	5.63		5.63
Albert J. Bingham 1662 E. 86th St. Cleveland Ohio	5.00		5.00
Mr. Sidney W. Binns 811 Yale Station New Haven Conn.		2.50	2.50
Francois Biran c/o Mr. R. Fery D. Esclands 19 Rue Duphot Paris France		2.72	2.72
Mrs. Jeanhette Bissig 2801 61st St. Des Moines Iowa		3.75	3.75
Sigrid Bjertnaes c/o G. O. Plamer 1 E. 73rd St. New York N. Y.		1.00	1.00
Fred Black c/o S. O. Co. of Venezuela Venezuela S. A.		61.50	61.50
Miss Anna D. Blair 355 River Ave. Weston W. Va.		1.50	1.50
Guillermo D. Blakeley c/o Compania De Petroleo Mercedes S. A. Apartado 269 Monterry N. L. Mexico		.50	.50

Stipulation of Facts

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Adolph C. Blanco 43 West 47th St. Bayonne N. J.	8.50		8.50
Alton L. Bland Jr. Sir Walter Hotel Raleigh N. Car.		2.50	2.50
William G. Blauvelt 195 Broadway New York N. Y.	7.50		7.50
Clarence Bledsoe c/o Ogle Construction Co. 28 E. Jackson Blvd. Chicago Ill.		1.00	1.00
Hendrik Blei c/o Nederlandsche Koloniale Soengie Geroni Pet Mij.		1.50	1.50
David Block Jr. c/o Sternberger Mc Kee Cotton Co. Memphis Tenn.		1.00	1.00
Jerry Block c/o Sternberger Mc Kee Cotton Co. Memphis Tenn.		1.00	1.00
Mrs. Georges Blum 5 Rue De Metz Paris France		4.00	4.00
Henry George Blum Kenton Ohio		1.50	1.50
Antonio Blumetti 224 High St. Elizabeth N. J.		6.25	6.25
Mr. Nils J. Boas 222 Dennison St. Highland Park N. J.		5.00	5.00
Mrs. Oral Lynne Bodet 2413 Verbna St. Edgewood Park New Orleans La.		2.75	2.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Theodor Bohl Caixa Postal Kl. Sao Paulo Brazil		.76	.76
Zenon Bolduc 3431 St. Hubert St. Montreal Que. Canada		5.00	5.00
Mrs. Helen Bolger 2 Triller Ave. Apt. 13 Toronto 3 Ont. Canada		.75	.75
Raymond Bona Box 683 Newport R. I.		1.14	1.14
Miss Margaret Mary Martin Bossert Garden City L. I. N. Y.		5.00	5.00
Jesse I. Boteler c/o Laurie Bowman Box 997 Seminole Okla.		3.50	3.50
Arnold J. Bourgeois 329 St. Louis St. Baton Rouge La.	.50		.50
Mrs. Blanche S. Boush Box 1 Oil City Pa.		1.50	1.50
Edwin Bower 720 France St. Baton Rouge La.		1.88	1.88
Miss Mary E. Bowes 704 Nashville Ave. New Orleans La.		1.25	1.25
Mrs. Sarah Bowler c/o Mrs. Agnes Pierce Litchfield Conn.		.50	.50
Andrew G. Bowman 16 W. 36th St. Bayonne N. J.		8.50	8.50
August Boykins R. F. D. No. 3 Box No. 51 Baton Rouge La.		1.50	1.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. John Boyle 98 W. 20th St. Bayonne N. J.		1.50	1.50
Bert Brandon c/o H. R. Cook Box 997 Seminole Okla.	.50		.50
William C. Bradley Box 228 Bristow Okla.		5.63	5.63
Robert Brannan 1423 Joliet St. New Orleans La.		.50	.50
Charles H. Brazil Box 1094 Shreveport La.		.76	.76
Mrs. Mae V. Brennan Kingwood W. Va.		5.00	5.00
Marcel Briand 67 Bvd. Des Invalides		30.00	30.00
Mr. Thorning Fleming Bright 509 Washington St. Jefferson City Miss.		1.25	1.25
Carolino Da S. Britto Caixa Posta! 59 Joan Pessoa Parahyba Do Norte Brazil		2.50	2.50
Mr. William Brogan 5357 Kenmore Ave. Chicago Ill.		1.75	1.75
First National Bank a/c Henry Brosins Brownsville Texas		7.50	7.50
Beulah Brown 303 N. Richmond Ave. Atlantic City N. J.		2.50	2.50
Mrs. Eleanor A. Brown 575 W. 111th St. New York N. Y.	2.50		2.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Frank Brown 975 Railroad Ave. Baton Rouge La.		1.00	1.00
George Brown 1706 Poland St. New Orleans La.		.38	.38
Johnnie Brown c/o Jack Michelli RFD 4 Baton Rouge La.		1.50	1.50
Mr. William Brown Saint Helena Island S. Car.		2.00	2.00
William B. Brown 410 Pullman Ave. Hot Springs Ark.		2.37	2.37
Mrs. Mary Pfaff Browne 5374 Vernon Ave. St. Louis Mo.		.38	.38
Mrs. Muriel S. Bruning Hearne Apts. Wheeling W. Va.		.50	.50
William H. Buckley Jr. Hamilton D3 Soldiers Field Station Boston Mass		3.00	3.00
Lurtie B. Bucy c/o Federal National Bank Shawnee Okla.	9.00		9.00
Johan H. Buddeke c/o A. J. Partridge Wheaton Ill.		1.25	1.25
Mrs. Carrie R. Buell 1408 E. 42nd St. Seattle Wash.		1.13	1.13
Abraham L. Burgess c/o Seminole Machine Shop R. R. No. 1 Box 8 Seminole Okla.	1.00		1.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Burt S. Burke 270 Halsey St. Wilkinsburg Pa.		1.50	1.50
Mr. John Burke Dubuque La.	3.50		3.50
Julia M. E. Burke c/o Thos. J. Burke Princeton Club 39 E. 38th St. New York N. Y.		.50	.50
Mrs. Nell P. Burke 1502 E. 8th St. Oknulgee Okla.		5.00	5.00
Eugene F. Burns Apartado 657 Tampico Mexico		31.88	31.88
John A. Burns 73 E. Lane Ave. Columbus Ohio.	7.50		7.50
John G. Burns 400 Roup St. Pittsburgh Pa.		25.00	25.00
Juan Fuentes Bustamante Vergara 396 Santiago Chile		4.38	4.38
Mr. John T. Bustin c/o Carter Oil Co. Burbank Okla.	1.25		1.25
Mrs. Winifred C. Butler 830 Potomac Ave. Buffalo N. Y.		2.50	2.50
W. R. Butler R. 1 Kaw City Okla.		.75	.75
John Byrne 117 Bostwick Ave. Jersey City N. J.	.76	1.76	2.52
John H. Calvert Hastings W. Va.		2.00	2.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Charles H. Campbell..... c/o Mr. Paul T. Campbell 115 Broadway Room 622 New York N. Y.	12.00		12.00
Miss Elizabeth Campbell..... 126 Broadway Wilmette Ill.	5.00		5.00
Mr. John W. Cappean..... c/o John P. Cappean Sons 307 4th Ave. Pittsburgh Pa.		.25	.25
Arthur B. Caraway..... Grand Lake Arkansas	6.50		6.50
Mr. Modesto V. Careago..... Apartado 657 Tampico Mex.		2.75	2.75
Frank T. Carey..... 377 Park St. Boston Mass.	4.00		4.00
Miss Loula Carey..... c/o New York Baseball Club 15 W. 55th St. New York N. Y.		1.25	1.25
Lawrence W. Cariker ..... c/o Mrs. E. R. Eubanks 538 North Harvard Blvd. Los Angeles Cal.		1.50	1.50
Churchill Carmalt ..... 137 E. 66th St. New York N. Y.	4.50		4.50
Robert C. Carr..... 170 Jefferson Ave. Tenafly N. J.	1.00		1.00
James F. Carrol..... 18 Cherry St. Elizabeth N. J.		.38	.38
Marvin P. Carter..... 1022 Ideal Way Charlotte N. Car.		.50	.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Rennie Carter 513 Grace St. Richmond Va		.50	.50
Robert B. Carter Madison N. Carolina		.50	.50
George A. Casamiquela 15 Avenida UR 22 San Salvador Central America		1.50	1.50
Thomas J. Casidy c/o Standard Shipping Co. 26 Broadway New York N. Y.	7.00		7.00
Michael Cassidy 354 Franklin St. Elizabeth New Jersey		3.25	3.25
Alfredo Castells Montifideo Uruguay		.88	.88
Jorge Del Castillor c/o Casilla 669 Ave New Mexico		4.00	4.00
Mr. Samuel G. Cazazis 167 Lake St. Chicago Ill.		12.50	12.50
Martin T. Chamberlain 204 Groaver St. Joliet Ill.		2.50	2.50
Joseph E. Chancey Bryant Okla.		.50	.50
Alexander H. Chapman c/o Chapham Phenix National Bk. 149 Broadway New York N. Y.		4.50	4.50
George Chapman Scotlandville La.	7.52		7.52

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Pedro Chazaro Apartado 657 Tampico Mexico	6.75		6.75
Cecil C. Cherry c/o A. E. Perry Route #2 Seminole Okla.	3.00		3.00
William Cherry 1314 Cherry St. Toledo Ohio		4.50	4.50
Julio Chiappe Av Roquesaenz Pena 567 Buenos Aires Arg.		2.75	2.75
Miss Stella R. Childs c/o Mrs. Frederick 1539 N. Wells St. Chicago Ill.	2.50		2.50
Miss Elizabeth Palmer Christian c/o Mrs. Robert W. Daniel Brandon Deal Post Office Va.		4.75	4.75
Vito Cinque 206 E. 59th St. New York N. Y.		1.00	1.00
John J. Clarey Jr. 4039 Bronx Blvd. New York N. Y.		.50	.50
Joseph M. Clark Ringling Okla.	4.50		4.50
Robert Sterling Clark 11 Wall St. New York N. Y.		3.76	3.76
S. H. Clark Empire City Okla.	.75		.75
Mrs. Catherine Clarke % M. Dooley Garrafin Sacca Mountrath Queens Co., Ireland		3.75	3.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Clement Clarke 32 Delaware St Charleston S. C.	1.25		1.25
Henry O. Clayton Route 2 Box 14 Wilson, Okla.		5.50	5.50
Edmund W. Coates RFD 2 Norfolk Va.		1.88	1.88
William E. Coates Florence S. Car.		5.00	5.00
James H. Cochrane 304 Bergen Ave. Jersey City N. J.		.50	.50
John Cohara 1218 Hathaway Road Valley View Village Ohio	1.88		1.88
Leonard Louis Cokefir 4824 W. 18th St. Los Angeles Cal.		.38	.38
Roy M. Coker % C. P. Coker Tuttle Okla.		3.00	3.00
Muton Cole 79 Huntington St. New Brunswick N. J.		.50	.50
Emidio Colello 621 Broadway New York N. Y.	13.65		13.65
Ivan O. Collins Box 997 % Grisso Gasoline Plant Seminole Okla.	2.00		2.00
Mr. Garret Conklin 1 Card St. New York N. Y.	2.40		2.40
Basil W. Conlon 1308 W. 117th St. Cleveland Ohio	1.88		1.88

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Charlotte D. Conner 3815 Echodale Ave. Gardenville Baltimore Md.		.50	.50
Mrs. Margaret M. Connolly 727 Rivera St. San Francisco Cal.		7.50	7.50
Mrs. Jessie F. Connor New City Rockland Co. N. Y.		2.50	2.50
John A. Conover 540 Prospect Blvd. Kansas City Mo.	2.50		2.50
Miss Paula Conry 762 N. Denver Ave. Tulsa Okla.		3.00	3.00
Charles F. Coon c/o J. C. Hines Grayson La.		.50	.50
Miss Corinne Cooper c/o Dr. S. P. Sebastian Griggs Bldg. Greensboro N. Car.		.25	.25
Charles B. Copperman 5317 McBride Ave. Cleveland Ohio	6.75		6.75
Joseph F. Cormore 1 Exchange Place Room 912 New York N. Y.	37.50		37.50
Marie Cornamusaz c/o Petroleum Import Cie Zurich Switzerland		1.50	1.50
Benjamin F. Cornwall 53 Mount Vernon St. Boston Mass.		3.00	3.00
Edwin F. Cosgrove 17 Yates Ave. Newark N. J.		1.13	1.13

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Antohio R. Costa Caixa Postal 970 Rio de Janeiro Brazil		1.50	1.50
Flavina O. De A. Costa Caixa Postal 59 Parahyba Brazil		5.50	5.50
Elie Cote 11 Brigham St. Springfield Mass.		.50	.50
James R. Gottet 123 N. 11th St. Newark N. J.		.63	.63
Maria Courrege Caixa Postal 970 Rio de Janerio Brazil		4.00	4.00
Maria Courrege c/o Maria Careiss Rua Sta. Christina #77 Rio de Janeiro Brazil		2.00	2.00
Mrs. Dorothy W. Cover 1636 E. 8th Ave. Denver Colo.		1.00	1.00
Eunice C. Cowles 1832 Columbia Road N. W. Washington D. C.		77.25	77.25
J. Jay Cox Scottville Mich.		5.00	5.00
Edith Clare Bryce Cram c/o Colony Club 562 Park Ave. New York 21 N. Y.		54.00	54.00
Dwight D. Crawford Box 504 Dallas Texas		.50	.50
J. Schuyler Crawford 1304 Sanson St. Phila. Pa.		2.50	2.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Lüise Cremer Ludgeriplatz Duisburg Rhein 19 Germany		1.42	1.42
Mrs. Serena E. Crosby 22 E. 12th St. Bayonne N. J.		.50	.50
Floyd R. Crossno c/o Laurie Bowman Box 997 Seminole Okla.	5.00		5.00
Archie F. Crowe c/o Y. M. C. A. Tulsa Okla		.50	.50
Mrs. Josephine N. Crowell 6337 Woodlawn Ave. Chicago Ill.	.50		.50
Alexis H. Cruittenden Bedford Mich.		1.00	1.00
Harry K. Culver 6215 Jefferson St. Phila. Pa.		5.00	5.00
Mrs. Martha B. Cushman 55 E. 72nd St. New York N. Y.		5.00	5.00
Thomas W. Cutler Haddon Heights N. J.		2.50	2.50
Miss Vrginia Cutler c/o Mrs. E. Slawson Greenwich Conn.		1.25	1.25
Ambrose J. Dacey 244 William St. Belleville N. J.	1.00		1.00
Svenning Dahl 2401 N. Kedzie Ave. Chicago Ill.		9.38	9.38

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Freidrich Dalldorf c/o Waried Tankschiefe Rhedere GMB H. Hamburg 36 Neuer Jungfernstieg 21 Germany	1.13		1.13
Ferdinand H. Dalrymple 121 Center Rd. Bedford Pa.	3.75		3.75
L. H. Dalton 22 Cornellio St. Port of Spain Trinidad B.W. 1		5.00	5.00
Miss Elizabeth F. Danaley 422 North 8th St. Council Bluffs Iowa		2.50	2.50
Jackson Daniels P. O. Box No. 9 R. F. D. No. 1 Baton Rouge La.		.75	.75
Frank P. Danna P. O. Box 515 Baton Rouge La.		2.50	2.50
Alberto De Silva Caixa Postal 337 Santos Sao Paulo Brazil		.50	.50
Arthur X. Da Silveira Caixa Postal 14 Maceio Alagoas Brazil		.50	.50
Ethel Frazer Daugherty 1201 West Grand Avenue Marshall, Texas		4.50	4.50
Lawrence H. Dautel 1026 Clarence St. Lake Charles La.		.50	.50
Maria T. Davila Apartado 1273 Mexico D. F.	8.75	2.00	10.75
Clay Davis P. O. Box 72 Baton Rouge La.	1.00		1.00
Mrs. Eva Coleman Davis		1.00	1.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
126 N. Broadway Tarrytown N. Y.			
George C. Davis c/o West India Oil Co. Ave Roque Saenz Pena 567 Buenos Aires Argentina		.75	.75
Mr. George E. R. Davis 56 Laurens St. Charleston S. Car.		9.00	9.00
Mr. J. F. Davis Route 1 Box 38 Hourtman La.		1.50	1.50
James H. Davis General Delivery Wilson Oklahoma	.50		.50
Lee Davis 1010 Julia St. Baton Rouge La.	1.50	1.50	3.00
Lee Davis 1010 Julia St. Baton Rouge La.	1.50		1.50
Robert A. Davis c/o G. L. Miller P. O. Box 1739 Shreveport La.		2.50	2.50
Frank E. Davidson Meadville Pa.	2.50		2.50
Ernest Day c/o Standard Shipping Co. 26 Broadway New York N. Y.	2.50		2.50
George Willis Day 48 Baltimore St. Lynn Mass.		6.25	6.25
Mrs. Grace Camp Day 4612 Lake Park Ave. Chicago Ill.		6.25	6.25

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Kenneth B. Day 22 W. 72nd St. New York N. Y.	2.50		2.50
Sidney Day Orchard Lea Fawley Hampshire England		.75	.75
Jean Marie Dazayous c/o Mr. R. Fery D Esclands 19 Rue Deuphat Paris France		.25	.25
Jean Marie Dazayous 18 Bis Rue Waldeck Rousseau Vitrey Sur Seine Seine France		.50	.50
Virgilio S. De Aguiar Caixa Postal 230 Manoas Brazil		1.00	1.00
Carolino Da S. T. De Briho Caixa Postal 59 Parahyba Brazil		1.00	1.00
H. Claire Dees Curtis Hotel Minneapolis Minn.		.08	.08
Antonio J. De Freitas Caixa Postal K. K. Sao Paulo Brazil		1.00	1.00
Albert F. De Guines 1860 Foster Ave. Chicago Ill.	3.75		3.75
Alphonse J. Deleers 1021 Church St. Marinette Wisc.		5.00	5.00
Frans E. Dellenbag c/o Ned. Kol. Petr. Mij. Palembang Sumatra D. E. I.		.50	.50
Eugenie Delteil 1 Rue Voltaire Carcassonne Aude France		18.00	18.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Alexandre De Maria c/o Standard Oil Co. of Brazil Caixa Postal K. K. Sao Paulo E. S. Panlo Brazil		1.00	1.00
Aloysio C. De Mendonca Caixa Postal 14 Maceio Alagoas Brazil		.47	.47
Emilien Demers 21 Somerset St. Holyoke Mass.		.50	.50
Ollie E. Dempsey Route 5 Box 8 Oklahoma City Okla.		1.00	1.00
William L. Dempsey c/o Eaton Prod. Co. 605 Broad St. Newark N. J.		5.00	5.00
Miss Rose Ella Dennan c/o Dr. Cyril K. Church 180 W. 59th St. New York N. Y.	1.13		1.13
Marie Descoins Nee Tapie c/o Mr. R. Fery D. Esclands 19 Rue Duphot Paris France		.25	.25
Mrs. Conepcion Ferrandino De Stano Corrientes 980 Piso 4 Deptoc Buenos Aires Argentina		1.00	1.00
Mr. Arthur F. Dewey 51 E. 54th St. New York N. Y.		1.00	1.00
J. Walter Dible Brackenridge Pa.		2.50	2.50
Fred G. Dickson Smithville Texas		8.00	8.00
Mr. Henry Dickson Car Wheel Co. Houston Texas		12.50	12.50

	Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
	Arturo H. F. Dieckmann c/o Sra. Maria Dieckmann La Condamintalol Quitos Peru		1.00	1.00
	Charley G. Dietz 2424 W. 14th St. Little Rock Ark.		2.00	2.00
	Joseph Wm. Diggs 25 Mather St. Hartford Conn.		9.00	9.00
	Hendrik Dijken c/o Ned. Ino Escompto Mij Palembacg Sumatra D. E. I.		1.75	1.75
	Annabel C. Dolson 26 Broadway Rm. 737 New York N. Y.	3.50		3.50
	David C. Donaldson 66 Merrimack St. Lowell Mass.		.38	.38
	Mrs. Nellie Donnelly & Mrs. Anna Gray & John J. McGraw as Joint Tenants etc Polo Grounds New York N. Y.		2.00	2.00
	James Dooling 480 Adams Ave. Elizabeth N. J.		3.00	3.00
	Estate of Carleton G. Dorman c/o C. A. Robinson Extr. 102 Appian Way Keene N. H.		8.00	8.00
	Charles Dorrance Jr. Scranton Life Bldg. Scranton Pa.		.38	.38
	Mrs. Edith Dorsey 21 Central Ave. Phoenix Ariz		.50	.50
	Jiacinto Dosio Arenales No. 417 Campan F.C.C.A. Argentine Rep.		1.50	1.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Harry A. Dougherty 12 E. 4th St. Bayonne N. J.		4.00	4.00
Jewel H. Dowell c/o E. Leachmann Box 2045 Tulsa Okla.		1.50	1.50
George E. Dowler Collinsville Okla.	.50		.50
William H. Downes 230 Sargeant. St. Hartford Conn.		.25	.25
Patrick Doyle 7846 Carpenter St. Chicago Ill.		5.00	5.00
Mr. Frank Drapalun 1200 Wood Ave. Linden N. J.	1.25		1.25
Henry A. Dreffein 308 W. Washington St. Chicago Ill.		2.50	2.50
Emmett J. Drehr R.F.D. #4 Baton Rouge La.		.50	.50
Charles V. Dresser c/o Paulette Shop 6th & Boulder Tulsa Okla.		1.42	1.42
Arthur J. Drovin St. Johnsbury Vt.		5.00	5.00
Mrs. Mary Dumont Belmont Hotel 3156 Sheridan Rd. Chicago Ill.	12.50		12.50
Abner H. Duncan 1019 Kney. Memphis Tenn.		3.00	3.00

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Harlan P. Duncan Hampton Hotel Albany N. Y.		2.50	2.50
Claude K. D'Unger Apt. 657 Tampico Mex.	6.25		6.25
Gilbert M. Dunn 623 W. 204th St. New York N. Y.		.38	.38
Mr. Albert Edelbach 677 Quincey St. Brooklyn N. Y.		.25	.25
Bailey O. Edwards 314 W. 25th St. Norfolk Va.	1.13		1.13
Miss Fannie N. Ehrlick 221 Hamilton St. Albany N. Y.		1.50	1.50
Vincent L. Ekeberg 208 Paris Ave. Rockford Ill.		1.50	1.50
Mr. David A. Elias 530 9th Ave. Bethlehem Pa.		.75	.75
Mlle Mielle Elisabeth c/o Place Ste. Anne Lyon France		.50	.50
John M. Elliot New Alexandria Pa.	1.88		1.88
Robert W. Ellison Piedmont S. Car.		.25	.25
Mrs. Margaret Ely Ells 1842 National Ave. Rockford Ill.		.25	.25
Wilson D. Elmendorf 79 Oneil St. Kingston N. Y.		3.75	3.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mary G. Ennis 2529 Grand Ave. New York N. Y.		.50	.50
Miss Frederika Ensign 320 Eastern Parkway Brooklyn N. Y.		1.00	1.00
Ellis O. Estes Box 1801 Danwright Okla.	.38	.88	1.26
Francisco Eugenio Sammartin 562 Campana 562 Argentine Rep.		.50	.50
John C. Evans 1414 No. Dearborn St. Chicago Ill.		5.00	5.00
Mrs. Myrtle S. Evans 5054 W. Erie St. Chicago Ill.		3.00	3.00
Miss Nora Fahey 173 Pond Ave. Brookline Mass.		2.50	2.50
Mrs. Estelle B. Fain 2814 Conn. Ave. Washington D. C.		.50	.50
Jose R. A. Farias Caixa Postal 14 Maccio Alagoas Brazil		4.50	4.50
Mike Farley 2510 Avenue Q Galveston Tex.		3.75	3.75
Charles W. Farran 82 Culver Pkway. Rochester N. Y.		2.50	2.50
Pat. K. Farrar c/o Standard Oil Co. of La. Bin 1 Smackover Ark.		3.50	3.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Thomas F. Farrell c/o Newhousef Hotel Salt Lake City Utah		9.75	9.75
John Fasshender Drake Court No. 32 Omaha Nebr.		2.50	2.50
Rosario Fazio 31 Avon St. Lawrence Mass.		2.50	2.50
Mrs. Petronella Pfaus Gdn. for William H. Feitzinger & Mrs. Sophie Lauer Gdn. for Eleanore Feitzinger 221 Prospect St. East Orange N. J.		56.90	56.90
P. M. Ferguson c/o Mr. George W. Brake International Petroleum Co. Ltd. Negritos Talara Peru S. A.		1.13	1.13
William T. Ferguson 1108 Union Tr. Bldg. Charleston W. Va.	1.88		1.88
Mrs. Belmiria Avila Fernandes Rua Conde de Porto Alegre No. 970 Grande Estado Do Rio Grande Do Sol Brazil		1.50	1.50
Alfredo R. Fernandez Rincon 130 Banfield Prov. of Buenos Aires Argentina		.75	.75
Antonio Fernandez 482 Boulevard Bayonne N. J.		4.50	4.50
Mr. Luis A. Fernandez Ave. Roque Saenz Pena 568 Buenos Aires Argentina	1.25		1.25
Cherubina Ferrajol Caixa Postal K. K. Sao Paulo Brazil		2.00	2.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Lemuel A. Ferrall R. F. D. 2 Seminole Okla.		3.00	3.00
John Ferry 101 Browne St: Brookline Mass.		.25	.25
Mrs. Irene Lamke Ficken 701 Poli St. Ventura Calif.		2.50	2.50
Helmut Fickert 1 Pfalz B. Kaiserslautern Reichenbach Germany		.50	.50
Henry Fields 9 Fulton St. Montclair N. J.		5.50	5.50
Joseph E. Fields 624 S. Maxmillian St. Baton Rouge La.		1.88	1.88
Miss Bertha C. Fischer 624 E. 2nd St. Plainfield N. J.		2.50	2.50
Mr. Dermot Fitzgibbon c/o N. Y. American 1834 Broadway NYC	5.00		5.00
John D. Fitzhugh Chateau Laurin Ottawa Ont. Canada		9.75	9.75
Sidney H. Flagler Jr. 484 Riverside Ave. Rutherford N. J.		7.50	7.50
Timothey Flanagan 820 Gibbons Court Elizabeth N. J.		7.50	7.50
Milon C. Flanders & Emma A. Flanders As Joint Tenants Etc. Box 32 Ferrysburg Mich.		1.13	1.13
Gilbert Fleetwood & Lillian M. Fleetwood As Joint Tenants Etc. 607 No. Pine St. Florence Fla.		4.75	4.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Frances Fletcher 14 St. Lukes Pl. New York N. Y.		.25	.25
Melville S. Flinn 308 W. Washington St. Chicago Ill.		2.50	2.50
Miss Ada J. Flocton 26 W. Washington Pl. New York N. Y.		2.50	2.50
Ned P. Folse % Standard Oil Co. of La. Baton Rouge La.		.50	.50
Jose Martinez Fontan 407 Avenue C Bayonne N. J.		12.00	12.00
Edward M. Foran 532 Medow St. Elizabeth N. J.		6.00	6.00
Miss Katherine S. Foran 59 Faire Harbour Pl. New London Conn.		.50	.50
Charles A. Forbes % J. C. Wolke 26 Broadway Rm. 835 New York N. Y.		.75	.75
Miss Sarah Ford % Mrs. Gerard Cox Box 545 Glen Cove L. I. N. Y.	12.76		12.76
Miss Gertrude Forrest Sta. F. Box 37 New Orleans La.	11.63		11.63
James Fox Box 222 Overland Mo.	17.50		17.50
Antonio Rodriguez Francisco Belot Rigla Cuba		.38	.38

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Jose Rey Franco Aguila 170 Havana Cuba		4.75	4.75
Mr. Emil Frankel 700 W. 179th St. New York N. Y.		.75	.75
Franklin Securities Corp % White Wright & Co 50 Broad St. New York N. Y.	11.25		11.25
John F. Fritz 462 W. Fillmore St. East Aurora N. Y.		.95	.95
Otto Fritz c/o D.A.P.G. Zentrale Neuer Jungfernstieg 21 Hamburg 36 Germany		8.57	8.57
Henry Fuchs 99 Dunwoodie St Yonkers N. Y.		5.00	5.00
James O. Fulbright Holt Street. Box #70 Charlotte N. C.		1.88	1.88
Miss Gertrude Fulton 4131 Clarendon Ave. Chicago Ill.		1.25	1.25
Frank Gaines 15 Dwight St. Chicopee Mass.		7.88	7.88
Avelino V. Galante 386 Broadway Bayonne N. J.	8.50		8.50
Avelino V. Galante 19 Andrew St. Bayonne N. J.	8.50		8.50
Harold F. Gallagher 7714 South Park Ave. Chicago Ill.		1.25	1.25

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Mary Gallagher 2096 53rd St. New York City N. Y.	2.50		2.50
Miss Mary Gallagher Hotel Latham 4 E. 28th St. New York N. Y.	5.00		5.00
Henry T. Gallahan 480 H. St. S. W. Washington D. C.		7.88	7.88
Edward L. Galouye 467 No. Boulevard Baton Rouge La.		1.00	1.00
Miss Grace Gals Behlen Apts. Cleveland Ohio	1.88		1.88
Jose M. Lopez Garcia c/o Creole Petroleum Corp. Maturin Venezuela		1.50	1.50
Victor Garcia Apartado 657 Tampico Mexico		.76	.76
F. P. Gardin 100 Morningside Ave. New York City N. Y.	5.63		5.63
Antonio Gargaro c/o Gilbert & Barker Mfg. Co. Springfield Mass.		1.50	1.50
Gordon Garrett c/o Standard Oil Co. of Venezuela Apartado 85 Maracaibo Venezuela		1.13	1.13
Louis Garrett R.F.D 4 Box 15 Baton Rouge La.		1.88	1.88
Thomas Garry 646 Montgomery Ave. Elizabeth N. J.		7.88	7.88

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Richard Gartz c/o Wärier Lankschief Rhederei G.M.B.H. Neuer Jungfernstieg Hamburg 36 Germany		2.25	2.25
William D. Guskill Ocracoke N. Car.		2.50	2.50
Serafin Gaspar 183 2nd St. Elizabeth N. J.		1.76	1.76
Troy A. Gaston La Cross Ark.		5.00	5.00
Mr. Patrick Gavin 368 Boulevard Bayonne N. J.	8.75		8.75
John W. Gay 128 E. Pittsburgh St. Greensboro Pa.		.50	.50
Gerhardus H. Geerligs c/o Geboun Petrolea The Hague Holland		2.85	2.85
Wilhelm Gehrig Baumweg 25 Frankfurt Am Main Germany		.25	.25
Mrs. Ruth L. Giel Box 54 Slate Hill Orange Co. N. Y.		1.75	1.75
Mr. Edward George 2421 Lincoln Ave. Chicago Ill.		10.00	10.00
Eduard Gestmann Markt 17 Gustrow L. M. Germany		.50	.50
James Getz 513 S. Wolfe St. Baltimore Md.		.50	.50
Thomas F. Gibbons 35½ Clinton St. Binghamton N. Y.		1.88	1.88

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Earl A. Gibson Rockwood Tenn.	.38		.38
Mrs. Minne Lee Gilbert 242 Broad St. Martinsville Va.		4.00	4.00
Miss Laurette A. Gilmore 601 W. 138th St. New York N. Y.		1.50	1.50
Miss Dorothy Gilpin Towson Md.		1.00	1.00
Samuel Ginsberg 987 Amsterdam Ave. New York N. Y.		5.00	5.00
Kyrianos Gobsis 274 Bonner Place Bronx N. Y.		5.00	5.00
Joseph Godleski 49 Warren St. Cartaret N. J.	7.00		7.00
William S. Godley c/o So. Co. of N. J. Aurora, N. C.		.38	.38
Miss Frieda Goell Zurcherstrasse 101 Hongg near Zürich Switzerland		.50	.50
Murray Goldstein 317 W. 77th St. New York N.Y.		2.50	2.50
Robert L. Golling c/o G. J. Aitken Room 507 26 Broadway New York N.Y.		1.88	1.88
Torquato Gomes Rua Sa Britto 36 Porto Alegre Rio Grande Do Sul Brazil		.45	.45

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Joshua Goodlow General Delivery Baton Rouge La.		3.00	3.00
Ivy B. Goodwin General Delivery Holdenville Okla.	8.25		8.25
Andrew Gordon 995 Prospect Ave. Hartford Conn.		1.25	1.25
Helen Gordon 536 Gordon Ave. Scranton Pa.		5.00	5.00
Samuel A. Gourrier RFD #4 Baton Rouge La.		.50	.50
Mrs. Earl V. Graham Arcata Humboldt Co. Cal.	3.75		3.75
George N. Graves Mohawk N. Y.		5.00	5.00
Ernest W. Gray 3441 Agnes Ave. Kansas City Mo.		.50	.50
Thomas Grays 210 Spain St. Baton Rouge La.		.50	.50
Ralph P. Grayson Negritos Peru S. A.		12.50	12.50
Mrs. Hannah J. Green 177 N.E. 50th Miami Fla.	2.37		2.37
Harry Green Laramie Wyo.		3.75	3.75
Mrs. Julius Green c/o S.O. N. J. Norfolk Va.		12.38	12.38

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Barrett Greenfield 3420 Fulton Blvd. Chicago Ill.		7.88	7.88
Joe H. Greenstein 4th & Liberty St. Louisville Ky.		6.38	6.38
Royal D. Greer La Grange N. C.	3.38		3.38
Mrs. Gladys M. Greesley Barnesboro Pa.		1.00	1.00
Charles H. Gregory 905 Polk Ave. Memphis Tenn.		3.75	3.75
Esteban Grene Ave. Roque Sanenz Pena 567 Buenos Aires Argentina		1.00	1.00
Jule R. Grier 6 West Franklin St. Richmond Va.		1.25	1.25
John H. Griffin P.O. Box 41 Matthews N. Car.		3.00	3.00
Patrick J. Griffin 95 Mooreland St. Springfield Mass.		2.50	2.50
Earl M. Grissmer 2010 Caroline St. Houston Texas		1.50	1.50
Mary Grogan Curstoke Ladysbridge Castle Martyr County Cork Ireland		6.75	6.75
William H. Gross c/o Mrs. June Gross Adms. c/o E. P. McCarthy 705 Olive St. St. Louis Mo.		5.85	5.85

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Rudolph B. Guillot 41 9th St. Baton Rouge La.		1.50	1.50
Harre R. Gulbransen Tomnesgaard Hole Ringerike Norway		2.00	2.00
Mr. Eugene Haeffner c/of Dreicer & Co. 3 W. 46th St. New York N. Y.	10.00		10.00
Clarence Hair 28 Park Ave. Roaring Spring Pa.		4.00	4.00
John P. Hale 5 Claremont Ave. New York N. Y.	7.37		7.37
Tomas Halecka Piedras 747 20 Piso Buenos Aires Argentina		1.00	1.00
Miss Elizabeth H. Hall 24 Liberty St. Charles City Va.		2.00	2.00
Robert K. Hall 8 Cortland St. New York N. Y.		.50	.50
Luis Hallas c/o Standard Oil Co. N. J. Marine Dept. 26 Broadway New York N. Y.	7.88		7.88
David Ahlpern 3L S. Westlake Ave. Los Angeles Calif.	4.00		4.00
James Hamilton P. O. Box 26 Scotlandville Pa.		.50	.50
Caroline M. Hanlon 20 Stuyvesant Ave. Merrick Long Island N. Y.		1.00	1.00
Mr. Louis Hannweber Cedar St. Bklyn. N. Y.		2.50	2.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding
Chauncey D. Harader 59 Murray Ave. Uniontown Pa.		5.00
Floryan Harbus 1325 Wrightwood Ave. Chicago Ill.	2.50	
Mrs. Mary A. Hardesty 417 Halldale St. Los Angeles Cal.		4.50
Fred C. Harper Box 1486 Seminole Okla.	1.50	
Irwin Harrell 620 Golden Rod Ave. Baton Rouge La.		.50
John Harris 323 Bond St. Elizabeth N. J.		.50
Mrs. Martha Corinne Harris Signal Mountain Tenn.		.25
Mrs. Alice M. Hart Box 435 Alamo Tex.		5.00
Obbie L. Harvey Box 997 Seminole Okla.		1.50
Charles Hatfield Cragmor Colo.		.50
Miss Delna Anne Hathaway 562 Greenwood Ave. Atlanta Ga.		5.00
Miss Alison L. Haughton Charles River Mass.		4.00
Zach Hynes 1620 Gayosa St. Baton Rouge La.		1.25

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Marion M. Hazen c/o Gavitt National Bank Lyons N. Y.		1.00	1.00
John O. Headley Hastings W. Va.		.38	.38
Mrs. Maude Healy 370 Central Park West New York N. Y.		2.50	2.50
Mr. Sidney Frank Heard c/o S. O. Co. Sec Anon Argentina Ave. Argentina S. A.		1.12	1.12
James Hefferan 807 Ocean Ave. Jersey City N. J.	1.88		1.88
Miss Ino Heikmin 2221 E. 14th St. Bklyn. N. Y.	3.39	1.13	4.52
Arthur Heinzig Oststr 82 Cheminitz Germany		2.00	2.00
Mrs. Louise W. Helmericht 4258 Arsenal St. St. Louis Mo.		2.50	2.50
Mr. Jean Henders 248 Eglinton Ave. East Toronto 12 Ont. Canada		.75	.75
Miss Mary E. Henebry 2100 Hudson Ave. Chicago Ill.	1.88	1.88	3.76
Ellwood Hendrick 139 E. 40th St. New York N. Y.		9.25	9.25
Geo. W. Henry Apartado 657 Tampico Tampi Mexico	1.50		1.50
Nathan S. Henry 42 Acushnet Ave. Springfield Mass.		1.00	1.00
James E. Henthorn 1039 E. Boulder St. Colorado Springs Colo.		.50	.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
William H. Herlwell 21 W. 52nd St. New York N. Y.		2.50	2.50
Mrs. Essie Herman 193 Annette St. Toronto Canada Ont.		2.50	2.50
Mrs. Essie Herman 923 St. Clair West Toronto Ont. Canada		2.50	2.50
Roman Arturo Hernandez c/o S. O. Co. of Venezuela Maturin Venezuela		2.25	2.25
Mrs. Frances Herndon 147 E. Main St. Lexington Ky.		.25	.25
Mrs. Dee Herod Dixon Springs Tenn.		.76	.76
Mrs. Fanny McComb Herzog 390 West End Ave. New York N. Y.		7.50	7.50
Mrs. Eleanor C. Hildebrand c/o Union & Planters Bank & Trust Co. Tr. Dept. Memphis Tenn.	37.50		37.50
William Daniel Hill 2306 Catherine St. Phila. Pa.		2.27	2.27
Georg Hillebrandt c/o Deutsch Amerikanische Pet Ges Mosczinskystr 18 Dresden A Germany		.50	.50
Miss Helen Lowe Miller 808 Broone St. New Orleans La.		5.00	5.00
Mrs. A. L. Hillerman R. F. D. 7 Box 722 Los Angeles Calif.		2.50	2.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Anthony Hills R. F. D. 7 Box 61 Baton Rouge La.		6.00	6.00
S. C. Hindeman Drawer 1 c/o Lion Oil & Refining Co. El Dorado Ark.	1.00		1.00
Henry Hines Scotlandville La.		.50	.50
Margaret G. Hinkley 120 Broadway New York N. Y.	12.50		12.50
Eduardo M. Hinojosa c/o S. O. Co. of Argentina Buenos Aires Argentina		7.50	7.50
Mr. Mayhew R. Hitch Jr. 16 Anthony St. New Bedford Mass.		20.38	20.38
William B. Hood Apartado 657 Tampico Mexico	8.00		8.00
Edward A. Hoffman 182 S. Arlington Ave. East Orange N. J.		3.75	3.75
Samuel H. Hoge Jr. 350 14th Ave. S. W. Roanoke Va.		3.75	3.75
Mrs. Mary Reid Hoggett 2765 Lancashire Rd. Cleveland Ohio		1.00	1.00
Patrick Holian 333 Fairmont Ave. Jersey City N. J.	5.00		5.00
Mrs. Dorothy A. Holm 1706 S. Westmoreland Ave. Los Angeles Cal.		1.50	1.50
Elbert Holmes 1565 Texas Ave. Shreveport La.		5.50	5.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Gladys Jean Holt 210 W. 86th St. New York N. Y.		2.50	2.50
Miss Margaret Holt 64 Union Ave. Schenectady N. Y.		1.00	1.00
Otis H. Holt	1.13		1.13
Ida C. Holzbaur c/o Wm. Penn High School Phila. Pa.		7.50	7.50
Alfred James Homan Box 138 Gustine Calif.		.75	.75
Miss Lala E. Home 29 Rhode Ave. St. Augustine Fla.		.25	.25
George H. Hoover 2804 No. 16th St. Omaha Nebr.	2.50		2.50
Mrs. Mary Elizabeth Horn 923 Clay Ave. Scranton Pa.		.75	.75
Henry Hornsby Box 104 Wilson La.		7.50	7.50
Frank J. Horsford 9 Patma St. St. James Trinidad B. W. I.		.50	.50
Leo Horvat Zagreb Jugoslavia		1.50	1.50
Erasmus Roderick Hosang c/o P. Giliezeau de Gannes Petrol Corp. Lago La Salina Maracaibo Venezuela		3.75	3.75
Almous Lawrence Howard c/o Hibler Hotel Seminole Okla.		1.50	1.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Estate of Charles N. Howard Charlotte Remington Extrx. 216 Waterman Ave. East Providence R. I.		5.00	5.00
Clarence O. Howard & Lily Standring Howard as Joint Tenants etc 124 Washington St. Springfield Mass.		.50	.50
Harry T. Howard Jr. 4534 St. Charles Ave. New Orleans La.		4.87	4.87
Harry T. Howard Jr. c/o Standard Supply Co. 822 Tchoupitoulas St. New Orleans La.		97.50	97.50
Thomas Hoyle 52 N. 60th St. Philadelphia Pa.		1.88	1.88
Mr. Charles G. Hubbard Kane Pa.		1.50	1.50
David Hudson Glace Bay N. S. Canada		12.50	12.50
John T. Hudson 2111 Spain St. Baton Rouge La.	.50	1.00	1.50
Albert P. Hughes 446 Oak St. San Francisco Calif.	65.00	29.50	94.50
Con Hughes Route 1 Blandville W. Va.		1.88	1.88
Henry Hughes Scotlandville La.		1.01	1.01
Roy E. Hughes Box 114 Wilson Okla.		1.00	1.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
William M. Hulse Carlinville Ill.		5.00	5.00
Miss Martha R. Hunt 1088 Park Ave. New York N. Y.		4.50	4.50
Mrs. Anna M. Hunter 231 Prospect St. South Orange N. J.		5.00	5.00
Mrs. Orla W. Hunter 512 North Chester Road Swarthmore Pa.		.50	50
Mr. Sonder Leon Hutchinson 97 Ronney St. Charleston S. Car.		3.75	3.75
Clyde R. Imler Box 967 Wilson Okla.	6.00		6.00
John M. Irwin 229 W. 46th St. New York N. Y.	3.75		3.75
Warburton G. Iselin 1999 Commonwealth Ave. Boston Mass.		.50	.50
Jerry Jackson R. F. D. No. 1 Baker La.		3.00	3.00
Joe Jackson Kaw City Okla.		3.50	3.50
Miss Jane Jackson 193 Willis Ave. Youngstown Ohio		5.00	5.00
Silas Jackson 132 Palmer St. Baton Rouge La.		2.00	2.00
Joseph J. Jacobs 3224 Grand Concourse New York N. Y.		7.50	7.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Joseph J. Jacobs 3224 Grand Concourse New York N. Y.		7.50	7.50
Miss Virginia Jackel 4008 Pine St. Philadelphia Pa.		2.37	2.37
John W. James & Stella M. James as Joint Tenants Etc. c/o J. J. Shepard Jersey City N. J.	4.50		4.50
Miss Ila M. Janes 50 Lynd Ave. Toronto 30 Ont. Canada		4.00	4.00
Israel H. Janet 1610 Ruxton Ave. Baltimore Md.		.50	.50
Jerry Jarrett 4316 Westway Toledo Ohio	11.50		11.50
Mr. Frank S. Jasin 1 Chase Court Bayonne N. J.	3.50		3.50
Melissa Jergens 126 Walnut St. Harrisburg Pa.		.50	.50
Fred B. Jetton c/o Gulf Refining Co. Tuis La.	1.14	.38	1.52
Hans Johanson Standard Oil of N. J. Marine Dept. 26 Broadway New York N. Y.	9.75		9.75
Walter E. Johns 513 North St. Oil City Pa.		.75	.75
Allan R. Johnson 608 7th St. West Ashland Wis.		1.8	1.88

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Doris Marie Johnson 2988 Ludlow Road Cleveland Ohio		.88	.88
Miss Elsie J. Johnson 11 Longwood Ave. Roxbury Mass.		2.50	2.50
Mrs. G. W. Johnson c/o Cia Maxicana De Aviacion S. A. Apartado 901 Mexico D. F. Mexico		6.75	6.75
E. Howard Foster Admr. Estate of Mr. Henry T. Johnson 419 Washington Ave. Bergenvield N. J.		1.88	1.88
Henry T. Johnson Chadbourn N. C.		2.25	2.25
Howard M. Johnson 5 Chestnut Ave. Begota N. J.		.25	.25
Mr. John Alfred Johnson 200 Union St. Sydney N. S. Canada		.97	.97
John E. Johnson Box 977 Seminole, Okla		1.00	1.00
Mrs. Masley Johnson Ernest & William Johnson Georgia St. Baton Rouge, La	.25		.25
Walter E. Johnson 36 Irving St., West Springfield, Mass.	.50	11.50	12.00
Wilk B. Johnson 1125 N. Market St., Shawnee, Okla.		9.50	9.50
James R. Johnson Box 2045 Tulsa, Okla		1.50	1.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Eudell Jolly 120 N. Stone Tucson, Ariz	.76		.76
Erwin Dain Jones 1717 N. Fitzhugh St., Dallas, Tex		5.00	5.00
Mrs. Hilary B. Jones 460 North St., Baton Rouge, La		.75	.75
Wilson E. Jones Flora, La.		6.00	6.00
Mrs. Elizabeth Sublette Jordan Springfield Charles Town, Jefferson Co. W. Va.		1.50	1.50
Charles W. Julian Fargo, N. D.		5.25	5.25
Albert J. Kalmary 212 Freeman St., New York, N. Y.	25.00		25.00
George Kanel 40 North 3rd St., Harrisburg, Pa.	12.50		12.50
Herman Kassinger 181 Montague St., Brooklyn, N. Y.		4.00	4.00
Charlotte Kay 522 N. 3rd St., Oil City, Pa.		4.50	4.50
Miss Annie F. Keller 1564 E. 13th St. Brooklyn N. Y.		2.50	2.50
Mrs. Cora T. Kelley c/o American Exchange Irving Trust Company 60 E. 42nd St. New York N. Y.	4.00		4.00
Hugh H. Kelley c/o El Dorado National Bank El Dorado Kansas		1.50	1.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
James M. Kelley c/o Standard Oil Co. of Venezuela Maracaibo Venezuela		34.38	34.38
Nehemiah Kelly 835 Gaines St. Baton Rouge La.		3.50	3.50
Thomas F. Kelly 3757 43rd St. Corona Long Island N. Y.		1.25	1.25
G. Radford Kelso 1320 Cortelyou Road Brooklyn N. Y.		.75	.75
Mrs. Frances J. Kennedy c/o Logan & Bryan 42 Broadway New York N. Y.		7.50	7.50
George A. Kenyon Bryant Okla	.38		.38
George J. Kerkman Van Horne Ia.		3.00	3.00
Martin E. Kestenbaum 555 Mountain Ave. Westfield N. J.		1.00	1.00
Albert Ketterl 2 Frohlicke Turkenstrasse Regensburg Germany		1.00	1.00
Leonore W. Keyes 4279 Grand Ave. Detroit Mich.		.76	.76
Mary J. Kiefhaber 409 W. State St. Ithaca N. Y.		12.50	12.50
Albert Sidney King c/o C. C. Cannery Cottage 5 Modesto Calif.	3.75		3.75
Mrs. Anna King % Jewish Maternity Hospital 270 E. Broadway New York N. Y.		2.50	2.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Janet Henke King c/o First National Bank Hersdale Ill.		1.00	1.00
Janet Henke King 6930 South Shore Drive Chicago Ill.		.76	.76
Washington R. King 7 S. Fulton Ave. Baltimore Md.		2.00	2.00
Harvey J. Kingry % Compania Trans Continental De Petrolea S. A. Cacalloa Comp #1 Apartado 657 Tampico Tampa Mexico		10.88	10.88
Miss C. Cornelia Kingsley 103 Elk St. Syracuse N. Y.	4.50		4.50
David W. Kinsley 375 Campbell St. Akron Ohio	4.00		4.00
Max Kirkpatrick Rural Valley Pa.		1.50	1.50
Mrs. Clair Wright Kite 2178 Wyoming Ave. Washington D. C.		5.00	5.00
H. F. Klamt c/o Sinclair Oil Co. St. Jos Texas	15.00		15.00
Mrs. Caroline Klaus 4518 Lorain Ave. Cleveland Ohio		.38	.38
Myron F. Kleeberger Warren Illinois		10.00	10.00
Julio Klein c/o Standard Oil Co. S. A. A. Buenos Aires Argentina		3.90	3.90

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Theodore W. Knauth 46 W. 40th St. New York N. Y.		5.25	5.25
Mr. Robert E. L. Knight Jr. c/o American Exchange N/B Dallas Texas.	50.00		50.00
Joseph Koch c/o A. S. Terril & Co. 111 Broadway New York N. Y.		.75	.75
Mr. Anton Koeller 1838 N. Cleveland Chicago Ill.		.25	.25
Joseph L. Kolenz 3210 W. 90th St. Cleveland Ohio	1.50		1.50
Martin J. Konold c/o Nathan C. Konold Ann Arbor Trust Bldg. Ann Arbor Mich.		.97	.97
Hans Koos 522 Bayway Elizabeth N. J.		1.50	1.50
Johann Kornbrust Zell A D Mosel Germany		1.50	1.50
Kenneth E. Kratz 1506 Geddes Road Ann Arbor Mich.		2.50	2.50
Susie K. Krause La Crosse Kansas		37.50	37.50
Richard C. Kroggel 149 15th St. Wheeling W. Va.	25.00		25.00
Mr. Henry Kronheim 5318 5th Ave. Brooklyn N. Y.		3.75	3.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Charles Kuederly 591 Summit Ave. Jersey City N. J.		5.00	5.00
Miss Anne H. Kuhlow 1952 E. 73rd St. Cleveland Ohio		7.50	7.50
Sig Kühne % West India Oil Co. Panama City R. P.		3.50	3.50
Mrs. Janette W. Kunze 21 Polhemus Place Brooklyn N. Y.		5.63	5.63
J. Willis Kunze 21 Polhemus Place Brooklyn N. Y.		5.63	5.63
H. H. Kyle Box 29 Oil City Pa.		1.13	1.13
Mitchell Kyviokon 320 Tremont St. Boston Mass.		.50	.50
Michael J. Lahey 108 Main St. Leominster Mass.	5.00	39.75	44.75
Robert Lambring R. I. Box 38 Kildare Okla.		.50	.50
Mr. Sidney Landry 1717 Gracie St. Baton Rouge La.		.50	.50
Mrs. Hattie C. Lang 725 Skinker Road St. Louis Mo.		5.00	5.00
Albert B. Langston Kilgore Texas	4.75		4.75
Erminia La Rocca 1128 Avenue V Brooklyn N. Y.		1.00	1.00

	Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
	John Charles Laux 1325 Arthur Ave. Chicago Ill.		.75	.75
	Mrs. Anna Lavrit 113 Grier Ave. R. F. D. 2 Elizabeth N. J.	2.26		2.26
	Fred Lavis Jr. 50 Greenacres Ave. Scouville N. Y.	2.50		2.50
	Richmond E. Lawlor 194 Margaret St. Richmond S. I. N. Y.		.25	.25
	Oscar W. Lawson 162 Academy St. Belleville N. Y.		2.63	2.63
	Mrs. Minnie E. Leach 97 Stephens St. Suite 32 Boston Mass.	1.00		1.00
	Patrick Leahy 116 8th Ave. East Calgary Alta Canada		10.00	10.00
	Robinson M. Leake 507 Boyd Ave. Baton Rouge La.		1.50	1.50
	Harley R. Leasure Grove W. Va.	3.38		3.38
	Fred J. Le Blanc c/o Standard Shipping Co. 26 Broadway New York N. Y.	5.00		5.00
	Messias Leite Caixa Postal 59 Paranyba Brazil		1.00	1.00
	General Michel Lelong 241 N. Peters St. New Orleans La.		2.50	2.50
	I. C. Lenderman 1079 E. Dalzell St. Shreveport La.		.50	.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Samuel Lesofsky 12 Franklin Ave. Chelsea Mass.		.50	.50
Claude Lesson A Gillg sur Loire Soone et Loire France		.75	.75
Miss Clara O. Leuschner c/o Mrs. H. Leonard Underhill Amigo Lioga Co. N. Y.		1.26	1.26
Alexander Levi c/o Standard Oil Co. S. A. A. Buenos Aires Argentina.		5.00	5.00
Herbert Levitan 206 Grand Blvd. Long Beach L. I. N. Y.	1.50		1.50
Mrs. Gertrude Levy 3444 Knox Pl. Apt. 61 Bronx New York		4.00	4.00
Emanuel L. Lewis 50 W. 96th St. New York N. Y.		10.00	10.00
Miss Emily Westwood Lewis c/o W. McMillian Lewis 1601 Railway Exchange Bldg. St. Louis Mo.		2.00	2.00
Gilbert Lewis 513 E. Grace St. Richmond Va.	1.00		1.00
Homer E. Lewis c/o Standard Oil Co. S. A. Argentina Avenue Roque Saenz Pena 567 Buenos Aires Argentina		7.13	7.13
Wm. F. Lewis 1197 Grand Concourse New York N. Y.		1.88	1.88
Ercell H. Leyda c/o C. B. Harris Bin 1 Smackover Ark.		1.50	1.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Sadie L'Heureux 3028 Ahell Ave. Baltimore Md.		.50	.50
Bert Lidgett c/o Mr. F. Smith Hospital Contralmirante Cordero Fes Rep. Argentina		7.80	7.80
Mr. Frank L. Lienhard Commonwealth Apts. Cedar Rapids Iowa.	7.50		7.50
Manoel de A Lima Caixa Postal 14 Mace 10 Alagoas Brazil		3.50	3.50
Harold H. G. Lindquist Valley City N. Dak.		.50	.50
Hermann Link c/o D.A.P.G.V.A. Frankfurt Borsenplatz 13 Frankfurt A Main Germany		.50	.50
Raymond A. Lippert 4870 Norwood Road Ave. Chicago Ill.		1.50	1.50
Walter W. Little 816 West 11th Ave. Pene Bluff Ark.		2.00	2.00
Mrs. Josephine Parker Locke 9 Hurlbritt St. Cambridge Mass.		6.00	6.00
Frank Lockwood 80 Spring St. Goshen N. Y.		1.25	1.25
John Logeman 733 Robbins Terrace Chicago Ill.		7.50	7.50
Adolf Lohlein c/o Waried Tankschiff Rhederei G.M.R.B.H. Neuer Jungfernstieg 21 Hamburg 36 Germany		7.50	7.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Hattie M. Lonergan 706 S. Wewoka Wewoka Okla.	6.75		6.75
Mr. Lewis Benton Long Jr. c/o Logan & Buhan 636 S. Spring St. Los Angeles Calif.		2.50	2.50
Rene Diaz Lopez P. O. Box 1303 Havana Cuba		.50	.50
Custavo Couso Lopez Aranguren 93 Regla Cuba		.38	.38
Ididoro Lopez c/o Isabel L. Cutulico 1038 B. S. Aire S. A.	2.25		2.25
Mrs. Susie M. Lothridge 27 Elm St. Norwick N. Y.		1.25	1.25
Joaquim M. Lourenco Caixa Postal 123 Proto Alegre Rio Grande Do Sul Brazil		.47	.47
William Lowe c/o Mrs. Charlotte K. Lowe Extrs. 144 Buckingham Road Yonkers N. Y.	7.00		7.00
Abdoe Lrazak Petodjo Miratoe No. 12 Batavia Centrum D. E. I.		2.00	2.00
Luciano Lucarelli Caixa Postal K. K. Sao Paulo Brazil		1.25	1.25
Fred Lucas Sigourney Iowa		.50	.50
Mrs. Florence M. Lustig 50 Santa Monica Way San Francisco Cal.		4.50	4.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Roy J. Lyon 406 State St. Bristol Tenn.	1.00		1.00
Lionel A. McAndrew RFD #2 Steele Place Baton Rouge La.		.50	.50
Mrs. Mary McArdle as Guardian of the Person & Property of James Julien McArdle & the Guardian Clerk of the Surrogate Court of New York County 118 W. 97th St. New York N. Y.		2.50	2.50
Alberta Gail McAtee Wapakonetta Ohio		.25	.25
Clare M. McCall 605 2nd Ave. Montgomery W. Va.		1.00	1.00
Mr. Thomas McCann 38 Filmore St. New Brighton S. I. N. Y.		16.26	16.26
Merlin E. McCarron 818 Walnut St. New Orleans La.		4.25	4.25
Kohn M. McClymont c/o Scarsdale Golf Club Hartsdale N. Y.		5.00	5.00
Miss Martina McDonald 93 Moraine St. Jamaica Plain L. Mass.		1.00	1.00
Mr. Thomas McEnroe 227 E. 59th St. New York N. Y.	18.75		18.75
Miss Catherine McFadden 811 Avenue D Miami Fla.		10.00	10.00
Thomas J. McGann 27 William St. New York N. Y.		2.50	2.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Mildred Lee McGarr General Delivery Holdenville Okla.	14.00		14.00
John McGhee P. O. Box 1347 Baton Rouge La.	1.75		1.75
Miss Katherine McGowan c/o Bank of Italy 7th & Aline Sts. Los Angeles Calif.		3.75	3.75
John B. McHale Farmingdale L. I. N. Y.	.50		.50
Mrs. Lina McKain 419 S. Winebiddle Ave. Pittsburgh Pa.		2.50	2.50
Mr. John McKay c/o National Analine & Chemical Co. Abbott Road Buffalo N. Y.		3.75	3.75
Miss Mildred McKee Barry Ill.		2.50	2.50
Edward L. McKenna Springfield Delaware Co. Pa.		1.00	1.00
Mrs. Kezia McKinnon 2 Ariola Road Toronto Ont. Canada		5.00	5.00
Mr. Smith McKown 1 Woodward St. Charleston S. Car.	3.25		3.25
Joseph F. McLaughlin 701 Oregon Ave. Philadelphia Pa.		2.00	2.00
Vance L. McLean 703 S. Akfuskee St. Wewaka Okla.	5.00	5.00	10.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
John W. McLellan New Glasgow N. S. Canada	5.00		5.00
Thomas G. McMahon 111 E. 11th Place Chicago Ill.		3.75	3.75
Mrs. Irene McMakin Shelbyville Ky.		1.88	1.88
Emigrants Industrial Savings Bank a/c Miss Catherine McMonagle #8918 43rd St. & Lexington Ave. New York N. Y.		7.50	7.50
John D. McVitty Bryn Maur Pa.		1.95	1.95
Miss Maurine McWane c/o Lynchburg Foundry Co. Lynchburg Va.		2.50	2.50
Miss Florence MacDonald 7956 Merrill Ave. Chicago Ill.		3.25	3.25
John W. MacDonald c/o George Corey New Zeon R.R. 1 Sumberg County New Brunswick Canada		2.72	2.72
Miss Mary E. Macdonald 300 London St. Peterboro Ont. Canada		.50	.50
Mrs. Maud C. Mackay 57th St. Ill. Central Station Chicago Ill.		.75	.75
John F. Hawtigan Temporary Guardian of the Person and Estate of Francis J. Madden 20 Beacon St. Boston Mass.		5.85	5.85
John Madden 9009 Empire Ave. Cleveland Ohio		5.00	5.00

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Midland Bank A/C Tanis L. Maddick 74 Goswell Rd. Clerkenwell Branch London E. C. 1 England		2.50	2.50
William Madigan 159 Nott St. Wethersfield Conn.		.50	.50
James M. Magee Mansfield La.	1.00		1.00
Seymour Maggio 704 Gains St. Baton Rouge La.		1.25	1.25
Miss Florence E. Magill Ensenada Porto Rico		1.00	1.00
George W. Magrogan 653 Columbia Rd. N. W. Washington D. C.	2.00		2.00
Miss Katherine S. Major Shavertown Pa.		1.13	1.13
Gus Malmberg 91 Mission St. San Francisco Calif.	1.00		1.00
Miss Agnes I. Maloney 115 Murray St. Elizabeth N. J.		5.00	5.00
Francine T. Manet c/o Security Co. Security Trust & Savings Bank Los Angeles Cal.		6.25	6.25
P. G. Mangum Box 1094 Shreveport La.		1.50	1.50
Mrs. Augusta S. Mannheimer 124 W. 79th St. New York N. Y.		1.88	1.88
Edgar E. Manucy Jr. St. Augustine Fla.		.50	.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Hans Marke c/o D. A. P. G. V. A. Hamburg Valentinskamp 90 Hamburg 36 Germany		1.95	1.95
Johannes Marke Klosterallee 23 Hamburg 37 Germany		.97	.97
Miss Avis L. Martin 20 Pleasant View St. Bangor Me.		2.14	2.14
Miss Emily E. Martin Apt. 303 3018 Tracy St. Kansas City Mo.		1.00	1.00
John F. Martin c/o Standard Oil Co. of Bolivia Postosi 169 La Paz Bolivia		2.50	2.50
Mrs. Julia W. Martin 17 Sherwood Pl. Greenwich Conn.		2.50	2.50
Louis Martin R. F. D. 1 Istrouma Branch Baton Rouge La.		2.00	2.00
Mrs. Malinda J. Martyn Richardson W. Va.	12.75		12.75
Wesley C. Marvel 1632 Norwood Ave. Baltimore Md.		.50	.50
Albert Marvin 1620 Benson Ave. Brooklyn, N. Y.		.25	.25
Charles Marzahl 131 Market St. Perth Amboy N. J.	5.63	5.63	11.26
Thomas John Mastros 230 E. 42nd St. New York N. Y.		2.50	2.50
Gustav A. Matscher 479 56th St. Brooklyn N. Y.	5.00		5.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Arthur E. Matthewson Oshawa Ont. Canada	5.00		5.00
Richard B. May 2715 N. 45th St. Omaha Enbr.	2.00		2.00
Florence B. Mayer 16 Claremont Ave. New York N. Y.	5.50		5.50
Samuel J. Mayer Box 244 Bower St. Linden N. J.		1.14	1.14
Joseph A. Maygers 711 S. Boulden St. Baltimore Md.		4.00	4.00
Francisco A. Mazziotti West India Oil Co. Sicursal Tucuman F.C.C.A.	.50		.50
Miss Ruth Meacham Greenwood Apts. Canon City Colo.		1.00	1.00
Miss Josephine Mealey 513 N. Stanley Los Angeles Cal.		1.88	1.88
Frank L. Mears c/o D. P. Mears Mason Mo.		1.25	1.25
Benjamin Mendes Caixa Postal 970 Rio De Janeiro Brazil		2.00	2.00
Fred E. Mercer c/o Standard Oil Co. of N. J. 26 Broadway New York N. Y.	1.13	2.26	3.39
Marvin C. Merrifield 3411 Brothers Pl. Anacostia D. C.	2.00	3.00	5.00
Mrs. Carrie Husted Merritt c/o Mrs. Ethel Snyder Round Hill Greenwich Conn.		.50	.50

Stockholder's Name and Last Known Address.	Returned by Post Office	Outstanding	Total
John R. Merritt 10 S. La Salle St., Room 612 Chicago Ill.		2.50	2.50
Antonio Mesa Ave Roque Saenz Pena 567 Buenos Aires Argentina		.75	.75
Alvin Metcalf 1030 S. Utica Pl. Tulsa Okla.	1.50		1.50
Ellis Meyer 8562 91st St. Brooklyn Manor L. I. N. Y.		2.25	2.25
Henry Meyer Titonka Ia.		.50	.50
Joe. M. Meyer 110 Pennsylvania Ave. Asheville N. Car.		2.50	2.50
Louis J. Meyerle 138 S. St. N.W. Washington D. C.		2.50	2.50
John H. Michael 218 High St. Elizabeth N. J.		.50	.50
D. W. Middleton c/o Guaranty Trust Co. 5th Ave. & 43rd St. New York N. Y.	.75		.75
John Miksiewicz 205 Bayway Elizabeth N. J.	1.50		1.50
William Miles F. D. #2 Box 3 Baton Rouge La.		1.50	1.50
Robert E. Milgrim c/o Chas. Milgram 6 W. 57th St, New York N. Y.		1.00	1.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Margaret W. Millar 41 Russell St. Plymouth Mass.		2.50	2.50
Adam Miller 367 Champagne St. Baton Rouge La.		2.75	2.75
Dorothy W. Miller 107 Stay Ave. Westmount N. J.		.97	.97
Harry Miller c/o Richard Whitney 50 Broadway New York N. Y.	12.00		12.00
Wilard A. Millican 501 Tennessee Ave. St. Elmo Tenn.		1.00	1.00
Herbert J. Millies Jr. 1138 6th Ave. Huntington W. Va.		3.00	3.00
Thornton Mills 919 Scott St. Baton Rouge La.		1.00	1.00
Samuel M. Millsap c/o A. E. [illegible]rry Route #2 Seminole Okla.	3.00		3.00
Alvin H. [illegible]ner 265 Cossit[illegible] Memphis Tenn.	1.13		1.13
Harry A. M[illegible]sky 381 Van Brunt St. Brooklyn N. Y.		7.50	7.50
Mrs. Kathleen G. Minus c/o Asherton State Bank Asherton Texas		3.75	3.75
Francis N. Joyce Trustee for Michael Michael F. Miovas U/A Dated Dec. 12 1931 481 New York Ave. Rochester Pa.		2.50	2.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Benjamin H. Mitchell 409 Power St. Anderson S. Car.		.50	.50
Duke Mitchell Hazel Oklahoma	3.00		3.00
James H. Mitchell Box 51 Elkhart Tex.		.97	.97
John Mitchell 451 Richmond Terrace New Brighton S. I. N. Y.		3.13	3.13
John E. Moisson 208 Calhoun St. Charleston S. Car.		.50	.50
Marie Mollard 11541 201st St. Albany N. Y.		1.00	1.00
Blanche Monnier 5 Rue Lyantey Paris France		30.00	30.00
Damaso Ilore T. Montano Arte 38 Casa Blanca Habana Cuba		4.25	4.25
Robert Montegudet 35 Avenue Kleber Paris France		7.00	7.00
Fernando Monteiro Rua Justiniano Da Rocha 44 Villa Isabel Rio de Janeiro Brazil		.50	.50
Joseph F. Moon c/o Standard Oil Co. of N. J. Box 880 Charleston Refinery Charleston S. C.	1.00		1.00
Georgina T. Moore c/o J. F. Brown 9 Belleveiw Terrace Hillside N. J.		.50	.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Irene Moore P. O. Box 132 Scotlandville La.	1.50		1.50
Aldwin Moos 1342 Jackson St. Shreveport La.		.50	.50
William B. Morelock General Ballivian Rep. Argentina S. A.		4.50	4.50
A. A. Moreno Room 905 26 Broadway New York N. Y.		18.75	18.75
Philip E. Morgan 63 Padwell Road Southampton Hampshire England		.47	.47
John L. Morgenthau 2 Rector St. Room 808 New York N. Y.		1.25	1.25
Miss Clara V. Morris 141 Washington Place New York N. Y.		1.25	1.25
Eddie Morris 1967 North St. Baton Rouge La.		1.25	1.25
Leland C. Morris 206 New Miller Bldg. Kirksville Mo.		1.25	1.25
Miss Leta Morris 1015 Park Ave. New York N. Y.		1.90	1.90
Miss Susanna Morse 1507 First National Bank Bldg. Baltimore Md.		1.00	1.00
Harry Moser 915 Westfield Ave. Elizabeth N. J.		2.50	2.50
Lee Mulhall 1524 Grandview Blvd. Sioux City Iowa		2.50	2.50

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Frederick Muller 1367 B. St. S. E. Washington D. C.		15.00	15.00
Mrs. Margaret Mullin 163 W. 33rd St. Bayonne N. J.		6.00	6.00
John Munroe & Co A/C Paul Malafosse 30 Pine St. New York N. Y.		35.00	35.00
Jessie R. Murchie c/o International Trust Banking Co. Calais Me.		4.75	4.75
Miss Katherine Murphy 1220 Greenup St. Covington Ky.		1.00	1.00
John E. Murray 24 Loder St. Hornell N. Y.		2.50	2.50
Kermit Murray c/o Standard Shipping Co. 26 Broadway New York N. Y.		.50	.50
Miss Anna M. Muulreany 301 Clermont Ave. Brooklyn N. Y.		3.50	3.50
Julius Nawyokas 1 Winter St. Inkerman Pittston Pa.		.75	.75
Michael E. Neary 1022 Neary Ave. Baltimore Md.	3.25		3.25
Amos R. Neer c/o Standard Oil Co. of Argentina Buenos Aires Argentina	5.25		5.25
Frank Netherton Skiatook Okla.		.76	.76

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
William J. Neuenschwander Sistersville W. Va.		3.75	3.75
Clarence A. Neusbaum 22 Emory St. Jersey City N. J.		7.50	7.50
Mrs. Eliese Neustadt 203 W. 107th St. New York N. Y.		4.00	4.00
Miss Frankie Lee Newton 1005 W. Mulberry Ave. San Antonio Texas		4.50	4.50
Richard Nicholson c/o F. C. Bigley Standard Oil Company Baltimore Md.	3.75		3.75
Abram Noe c/o Ned Kel. Pet. Mij. Weltevreden Batavia Java D. E. I.		8.50	8.50
Mrs. Alma B. Nolan Box 154 Manayka W. Va.		1.25	1.25
Margaret Norris 35 05 105th St. Corona L. I. N. Y.		2.50	2.50
Mary J. Norris Edgefield S. Carolina		1.00	1.00
Edw. A. Northen 986 Mission St. San Francisco Cal.		1.13	1.13
Soedirdjo Notowiroto c/o Ned. Kol. Petr. Mij. Palembang Sumatra D. E. I.		.50	.50
Miss Bessie Nunn 3007 1st Ave. Highland Park Richmond Va.		1.88	1.88

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Inez Nussel 2843 Melrose Ave. Walnut Hills Cincinnati Ohio		1.50	1.50
Louise Newell O'Brien c/o Wheeler Bently & Neville Lima Ohio		1.00	1.00
Mrs. Rose C. O'Brien 733 S. Flower St. Los Angeles Cal.		5.00	5.00
Sepp O'Brien 2512 Octavia St. Fresco Cal.		.50	.50
Archie Odell Cooper Okla.	.38		.38
Mrs. Katherine M. O'Donoghue 361 Belmont Ave. Springfield Mass.		.50	.50
Miss Winifred A. O'Donnell 17 Thompson St. Hugenot Park S. I. N. Y.		1.00	1.00
Elias Oemar c/o Sjamoedin Postklerk Padang Pandjang Sumatra D. E. I.		.67	.67
Thomas E. O'Flaherty c/o Cia Nacional De Pet. Ltda. B. Blanca Argentina		1.00	1.00
Oscar Olson Felton Minn.		2.00	2.00
Ourlis S. Olson Thor Iowa		1.50	1.50
Bernard Olsson c/o Standard Shipping Co. 26 Broadway New York N. Y.		.75	.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Dewey O'Neal R. F. D. 4 Baton Rouge La.		1.50	1.50
Clarence C. Osborn c/o Marland Refining Co. Ponca City Okla.		5.63	5.63
Jim A. Osborn Laguintos Club Lalara Peru		5.25	5.25
Henning Osterblad c/o Standard Shipping Co. 26 Broadway New York N. Y.		.75	.75
Mrs. Martha Osterrieth Austin St. Forest Towers Forest Hills L. I. N. Y.		1.00	1.00
Charles Oszust 483 Broadway Bayonne N. J.	9.25		9.25
Jose L. Otero c/o Standard Oil Co. S. A. A. Buenos Aires Argentina		2.00	2.00
Miss Corinna O'Toole 1224 Park Ave. Richmond Va.		1.50	1.50
Louis Oury c/o West India Oil Co. Ave Roque Saenz Pena 567 Buenos Aires Argentina		5.25	5.25
Liewellyn L. Outhuse 25 N. Main St. Springfield Mass.		.50	.50
Edward J. Owen 1391 Delaware Ave. Buffalo N. Y.		1.00	1.00
Sherwood Owen 6511 Bosworth Ave. Chicago Ill.		.75	.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Ben F. Pace c/o A. E. Perry Route No. 2 Seminole Okla.	2.00		2.00
Dulce De M. Pacote Caixa Postal 59 Paranyba Brazil		.50	.50
Justina A. Paez c/o West India Oil Co. Ave Roque Saenz Pena 567 Buenos Aires Argentina		.50	.50
Lyons Page 2344 St. Charles Ave. New Orleans La.		10.50	10.50
Henrique Pagliuca Caixa Postal K. K. Sao Paulo Brazil		1.00	1.00
Louis Palmer 429 Lewis St. Baton Rouge La.		2.25	2.25
Nick C. Palmer Weller Ave. Istrouma P. G. La.	1.50		1.50
Andrew Pappas 332 Alder St. Portland Ore.		.76	.76
Curtis T. Parker 222 Warren Ave. Baltimore Md.		.25	.25
Max Parker Box 448 Allen Okla.		.38	.38
Mr. Bob Parkdvich 1019 S. Maple St. Los Angeles Calif.		1.88	1.88
Samuel Parnass Bway. View Hotel 2720 Bway. N. Y. C.		4.75	4.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Monte L. Parris c/o Okla. Pipe Line Co. Route 4 Seminole Okla.		5.00	5.00
Ray Parrd 1113 W. 80th St. Chicago Ill.		2.50	2.50
Mrs. Lena M. Parsons Dinoya Okla.		.75	.75
Mr. Morris Pasternack 101 Grand Ave. Laramie Wyo.		1.13	1.13
Walter A. Patrick & Arthur J. Patrick Exec. of the Est. of Mr. Walter M. Patrick 1183 Jefferson Ave. Brooklyn N. Y.		2.50	2.50
Mrs. Clara S. Patterson 624 S. Michigan Ave. Chicago Ill.		1.13 1.13	2.26
Mrs. Janice A. Patterson 1673 Columbia Rd. Washington D. C.	36.04		36.04
Tom C. Patton E. 26th & Hamilton Ave. Cleveland Ohio		5.00	5.00
Miss Minnie M. Paul c/o David E. Rouse 571 Doctors Bldg. Cincinnati Ohio		18.75	18.75
Isaac Payne 206 Adam St. Baton Rouge La.	.50		.50
Pauline E. Pearson c/o Mrs. A. Lewis 117 Harmon Ave. Pelham New York		1.25	1.25
Mr. Cyril E. Peck 515 Union Ave. N. S. Pittsburg Pa.		.75	.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Ebba M. Peck 231 S. La Salle St. Chicago Ill.	.50 .50 .50		1.50
Miss Ruth M. Peck Woodmere New York		1.25 1.25	2.50
Mr. John H. Peel 208 S. La Salle St. Rm. 905 Chicago Ill.	.50 .50 .50		1.50
Miss Rosina Pellettier & Mrs. Genevieve Pellettier as Joint Tenants Etc. 808 Sherman Place Utica N. Y.		1.88	1.88
Mr. Raymond G. Peltey Warkmouth R. F. D. #4 Ontario Canada		.75	.75
Mr. Louis Pemovlie 209 Parkview Houston Texas	12.00		12.00
Mr. Simone Pepe 164 Thompson St. New York N. Y.		5.00	5.00
Eudaldo Ramirez Perea Luco #12 Havana Cuba	12.00		12.00
Fred J. Petersen & Leila M. Peterson as Joint Tenants Etc. 5019 George St. Chicago Ill.		1.50	1.50
Mrs. Jenny O. Petersen 233 Clinton Rd. Brookline Mass.		5.00 5.00	10.00
Arthur A. Pettigrew Box 997 Seminole Okla.	3.00		3.00
Mr. Wm. H. Pfarrar 447 Livingston St. Elizabeth N. J.		2.25	2.25

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
John H. Philips Rogersville Pa.	7.88		7.88
Mr. Raymond L. Philips R. D. 1 Ruffsdale Pa.	4.88		4.88
Roy M. Pierce Shawnee Okla.	7.50		7.50
Mrs. Edith D. Pierson 30 E. 42nd St. New York N. Y.		2.50	2.50
Robert Pifer Harpster Ohio		1.42	1.42
August Piguet Waried Tankschiff Rhederei G. M. B. H. Neuer Jungfernstieg 21 Hamburg 36 Germany		1.90	1.90
Mr. Oscar Pincuss 225 Rue Lafayette Paris France		3.75	3.75
A. N. De Andrade Pinto Rua Moreira Cezar 165 Nitteroy Estado Do Rio De Janero Brazil		.50	50
Presly W. Pitts Hotel Montclair 49th at Lexington Ave. New York N. Y.		5.00	5.00
Adelaide Kerrison Placci & Caarlo Aplacci 7 Via Alfieri Florence Italy		225.75	225.75
Poedjosdemarto c/o Ned. Kol. Petr. Mij. Palembang Sumatra D. E. I.		1.42	1.42
J. R. Poirier c/o Gilbert & Barker Mfg. Co. R. W. Guy Cashier Springfield Mass.		1.00	1.00

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Joseph Poirier 428 3 Rds. Ave. North Sask Canada	10.00		10.00
Murl D. Poling 310 Simpson Ave. Clarksburg W. Va.		1.50	1.50
Mr. John Polish 186 Halladay St. Jersey City N. J.		83.38	83.38
Mrs. Evelyn S. Pope 120 E. 21st St. Tulsa Okla.		5.00	5.00
L. Morgan Porter 1214 S. 51st St. Philadelphia Pa.		2.50	2.50
Mathew Pourrier 440 Leon St. Baton Rouge La.		1.25	1.25
Mrs. Helen Palmer Pray 1122 Second Ave. West Ashland Wis.		3.75	3.75
Mr. K. C. Prettyman 68 N. Atlanta Tulsa Okla.	.50		.50
Mrs. Sallie M. Price 921 St. Clais Ave. West Toronto Ont., Canada		5.00	5.00
Sterling R. Price c/o Standard Shipping Co. 26 Broadway New York N. Y.		1.95	1.95
Wallace T. Price P. O. Box 141 Glen Ridge N. J.	9.00		9.00
Mr. Alexander R. Pringle 22 Wellington St. East Toronto Ont. Canada		5.00	5.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
David Proctor Greenville N. Car.		5.00	5.00
Fritz Proepper Neustrasse 19 1 Gera Thunngue Germany		2.00	2.00
Mr. George Protsos 117 Cass St. Springfield Mass.		2.00	2.00
Mr. Alfred Putnam Hathaway Lane Wynnewood Pa.		13.75	13.75
Mr. Alfred Putnam c/o Dillon Read & Co. 1421 Chestnut St. Philadelphia Pa.		2.00	2.00
Mr. Enrique Quintanilla Apartaod 657 Tempico Mexico		.76	.76
Albert Raby Jr. 58 Bismark Ave. Trenton N. J.		1.75	1.75
Mr. Jason P. Rader c/o The Carter Oil Co. Burbank Okla.	4.88		4.88
Mike Radovich 511 Harmon St. Youngstown Ohio		6.00	6.00
Mr. Earl A. Raiguel Louisa Ky.		1.13	1.13
John I. Raines Box 383 Seminole Okla.	2.00		2.00
Abraham V. Rajwantn c/o Trinidad Oil Fields Operating Co. Ltd. P. O. Box 18 San Fernando Trinidad B. W. I.		.50	.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Blanche A. Randall 602 Swetland Bldg. Cleveland Obio		2.50	2.50
Mr. Wilhelm Ranft Marienthalerstrasse 73 Hamburg Germany		.50	.50
Mr. Oscar Range c/o Tombay Mine Smuggler Colo.	3.75	3.75	7.50
Thomas Ranzino 152 Royal St. Baton Rouge La.		8.00	8.00
Jacob Raufman 284 River St. Troy N. Y.		5.00	5.00
Fred Raymond 121 Tolang Djawa Palembang Sumatra D. E. I.		2.00	2.00
Mr. Robert R. Read 47 Riverside Ave. Evansville Ind.		1.25	1.25
Mr. Harvey C. Reagan P. O. Box 710 Minden La.		2.75	2.75
Mr. James M. Reed c/o Standard Oil Co. Soc Anon Arg. Ave. Roque S. Pens 567 Buenos Aires Argentina	5.50		5.50
Mary I. Reed Box 987 Cocoa Fla.		1.13	1.13
Mr. Philip Reed 13 Willow St. Bayonne N. J.		1.25	1.25
Mr. Philip Reed R. F. D. #3 Box 15 Baton Rouge La.		3.13	3.13
James L. Reilly 259 So. 3rd Ave. Mount Vernon N. Y.		2.00	2.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Joseph W. Reilly 845 Garden St. Elizabeth N. J.		1.25	1.25
Mr. Domingos Dos Reis, Jr. 145 Ave. Aqua Pranca São Paulo Brazil S. A.		.38	.38
Miss Elizabeth Rennult 135 E. 53rd St. New York N. Y.		5.00	5.00
Miss Florence Renoy c/o Battery Park Hotel Asheville N. J.	.50		.50
Mancel B. Resende Caixa Postal 970 Rio de Janeiro Brazil		1.88	1.88
Adelbert P. Rich Borough Hall Brooklyn N. Y.		9.00	9.00
Raymond Hugh Richard c/o Houston Oil Co. Smackover Ark.	3.50		3.50
Roy T. Richards c/o Standard Shipping Co. 26 Broadway New York N. Y.	5.50		5.50
Mr. Edward N. Richardson 2620 Josephine St. New Orleans La.	6.38		6.38
Mr. Norval R. Richardson 5058 N. Lincoln St. Chicago Ill.	15.75	1.25	17.00
Rufus Richardson 1057 Prospect Ave. 2-C Bronx New York		4.00	4.00
William Ricks 2925 W. North Ave. Baltimore Md.		.88	.88
Marcel Ricguer 134 Cours Leeutaud Marseille France		1.57	1.57

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Julian A. Riddick 641 Redgate Ave. Norfolk Va.		1.13	1.13
Miss Avice E. Riddle 570 E. 183rd St. New York N. Y.	.76		.75
Miss Frances H. Ridge Chamvers Ave. Greenville Pa.		.50	.50
Chester R. Riley Wellsburg W. Va.		50.00	50.00
Miss Mary Louise Rimmer 404 Hull Bldg. Little Rock Ark.		.75	.75
Elmo Roberson 1066 So. Boulevard Baton Rouge La.	1.00		1.00
Elmo Roberson 1122 S. Royal St. Baton Rouge La.	1.00	1.00	2.00
Mrs. Alice Mumford Culin Trustee for Penelope Roberts without indenture 296 Sterling Place Brooklyn N. Y.		8.63	8.63
Mr. Anton B. Robertson c/o Robertson Paine & Varnish Co. Cleveland Ohio		6.25	6.25
Leslie I. Robertson Box 1411 Seminole Okla.	.50		.50
Reginald E. Robinson R.F.D. Box 281 Charleston S. C.	3.00		3.00
Selma Robinson 65 Central Park West New York N. Y.		2.50	2.50
Luther J. Robison 1410 Poplar Ave. Memphis Tenn.		2.37	2.37

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Thomas Roche Box 58 Brooklyn N. Y.	5.00		5.00
Miss Anna M. Rock c/o J. B. Morrer 71st Troy N. Y.		8.50	8.50
Mr. Hector Rodriquez c/o S.O. Co. of Venez. Maturin Estado Monagar Venezuela		3.00	3.00
Mr. Javier Rodriquez Ave. Roque Saenz Pena 567 Buenos Aires Arg.		1.25	1.25
Chester Rogasky 15 Main St. Terryville Conn		1.00	1.00
Miss Elizabeth S. Rogers 150 E. 73rd St. New York N. Y.		7.50	7.50
Mr. Patricio Rolin 5 Dwight St. Chicopee Mass.		2.00	2.00
Diek Ronk 48 1st Wormesche Weg. Apeldoorn Holland		.50	.50
Mr. Nick Ronketti 2167 W. Meade Ave Chicago Ill.		1.13	1.13
Seymour G. Roos 1505 Mulberry St. Scranton Pa.		4.75	4.75
Roy C. Rose R.F.D. No. 1 Box 116 Morris Okla.		.50	.50
Mrs. Alice Edmondson Ross 23 Baker St. San Francisco Calif.	6.26		6.26
Miss Blanche Ross 526 E. 147th St. New York N. Y.		3.75	3.75

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Miss Jessie A. Ross 8100 E. Jefferson Ave. Detroit Mich.		1.88	1.88
Joseph H. Ross 608 Consolidated Bldg. Jacksonville Fla.		2.50	2.50
Miss Lillian Ross 526 E. 147th St. New York N. Y.		1.88	1.88
Miss Constance Rosseau 6th & Peach St. Erie Pa.		4.00	4.00
Rose Rothbart & Charles Felmeister as Joint Tenants etc 738 High St. Newark N. J.		2.50	2.50
Joseph Rowan c/o Ned. Kol. Mij. Palembang Sumatra D. E. I.		9.00	9.00
Mr. Robert S. Rowe c/o Central Bank Note Co. 233 Spring St. New York N. Y.		1.00	1.00
Paul Rudolf Mainkurstr 6 Frankfort Main Germany		1.75	1.75
Phillip Rühl Savignaeptrasse 65 Frankfort Main Germany		.75	.75
A. Robert Russell Box 23 Mink Texas	3.75		3.75
Mr. George Rutz 333 Monroe St. Wauseon Ohio		.75	.75
Carl M. Ryan 1310 East 11th St. Oklahoma City Okla.		.75	.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Herbert D. Rycroft c/o Ernest C. Rycroft 6735 Oglesby Ave. Chicago Ill.		2.37	2.37
Soetan K. Salam c/o Ned. Kol. Pet. Mij. Weltevreden Bataved Java D. E. I.		.50	.50
Mr. Edwin D. Samson 609 Iowa National Bank Bldg. Des Moines Iowa		7.00	7.00
Mr. Leopold T. Sanchez Colonia Americana Calle Arenal 1 Tampico Tamps Mexico		1.88	1.88
Miss Elizabeth E. Sanders 40 Summer St. Salem Mass.		1.00	1.00
Mr. Wm. T. Sanders 1208 Kearney St. Manhattan Kansas		1.72	1.72
Jose F. Sanger Lindwurmstr 39 Munchen 2 S. W. Germany		.50	.50
Hernan Sanz c/o Standard Oil Co. S. A. A. Buenos Aires Argentina		6.00	6.00
Sapii c/o Ned. Kol. Petr. Mij. Palembang Sumatra D. E. I.		2.00	2.00
Sapi-IE c/o Nederlandsche Koloniale Petroleum Mij. Batavia Centium Java D. E. I.		1.00	1.00
Edward E. Saulsbury General Delivery Seminole Okla.	2.50		2.50
Frank G. Saunders R. D. No. 4 Auburn N. Y.		3.00	3.00
John F. Saunders 1109 Owen Pl. N. E. Washington D. C.		.95	.95

	Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
	Mr. Schester Sawtelle 10 Pearl St. West Everett Mass.		5.00	5.00
	G. Saxton 3115 Coleridge Road Cleveland Heights Ohio		7.50	7.50
	Robert T. Saxton Woodberry Forest School Woodberry Forest Va.		.50	.50
	C. T. Schack c/o The Banish Consul Perth West Australia		1.13	1.13
	Mr. Ray J. Schaefer 17503 Archdale Ave. Lakewood Ohio		.50	.50
	Ernst Schafer Rosenstrasse 15 Rastath 1 Baden Germany		1.00	1.00
	Harry G. Schaubach 413 W. 34th St. Norfolk Va.		2.00	2.00
	John W. Schepf 3036 Stafford St. Baltimore Md.		.50	.50
	Mr. Henry Scherr Jr. 1655 5th Ave. Huntington W. Va.		.75	.75
	Emily Schmeiezka 101 W. 57th St. New York N. Y.	.50	2.00	2.50
	Ernesto Schmieder c/o Standard Oil Co. S. A. A. Arda Roque Saenz Rena 567 Beunos Aires Argentina		1.00	1.00
	Mr. Louis E. Schneider 1634 Kenmore Place Brooklyn N. Y.		6.00	6.00
	Elsie Schoeller 15 Continental Ave. Forest Hills L. I. N. Y.		.50	.50

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Francis E. Scholl c/o South Side Tr. & Svgs. Bk. Gary Ind.		8.75	8.75
Johannes Schulte c/o Waried Tankschiff Rhedereis Neuer Jungfernstieg 21 G. M. B. H. Hamburg 36 Germany		6.50	6.50
Maria Schulz c/o Mrs. Maria Brendel Nee Schulz Auras Kr. Wohlau Schlesien Ring Germany		.47	.47
Bruno Schultze c/o Standard Shipping Co. 26 Broadway New York N. Y.		.25	.25
John Schuster 26 Trotter Lane Elizabeth N. J.	4.00		4.00
Mrs. I. Margaret Schwarz 1075 Park Ave. New York N. Y.		1.88	1.88
Joan Schwuchow Apt. 657 Tampico Mexico		9.38	9.38
Gordon B. Scott Georges Boulevard Kewlett Neck L. I. N. Y.		.50	.50
Mrs. Hazel D. Scott 57 Linden St. Wyoming N. J.	.50		.50
Isabel M. Seabrook 6350 Marchand St. E. E. Pittsburgh Pa.		2.00	2.00
Marjorie L. Seaman 40 Douglas Road Emerson Hills S. I. N. Y.		2.00	2.00
Mr. Paul M. Seckt 728 Tate St. Memphis Tenn.		1.25	1.25

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Willi Seemann c/o Deutsch Amerikanische Pet. Ges Valentinekamp 90 Hamburg Deutschlandhaus Germany		1.00	1.00
Hans Segerath Mechallstr 25 Duisburg R. H. Germany		.50	.50
Edward E. Seiden 415 Ellis Bldg. Phoenix Ariz.		5.00	5.00
Esie Seligman 145 W. 79th St. New York N. Y.		5.00	5.00
Goldie Selly 12 W. 93rd St. New York N. Y.	3.76		3.76
Philip Settel 450 East 4th St. Brooklyn N. Y.		1.25	1.25
Mr. William C. Schafer 117 Albany Ave. Kingston N. Y.	5.00		5.00
Miss Stella S. Shafton 5434 Hyde Park Chicago Ill.		2.50	2.50
Clarence E. Shaw c/o Standard Oil Co. Standard Oil Bldg. Baltimore Md.		1.50	1.50
Miss Katherine G. Sheehan 25 Fenno St. Roxbury Mass.		3.75	3.75
Edward L. Sheehy Bank of Italy Long Beach Calif.		19.00	19.00
Mrs. Edna H. Shelly 1125 No. 3rd St. Atchinson Kansas		2.85	2.85

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Elva M. Sheppard 3rd & Pine Sts. Millville N. J.		5.00	5.00
Henry W. Sheppard & Margaret M. Sheppard as Joint Tenants Etc. 4541 French Rd. Detroit Mich.		2.50	2.50
Mr. Louis Siciliano 54 Norwood St. Springfield Mass.		3.75	3.75
Mr. Albert Silberberg Marienbornerstrasse 6 Magdeburg Germany		1.00	1.00
Mr. Timothy Silk 345 W. 43rd St. New York N. Y.	6.25		6.25
Mr. Max Simionescu 84 Sussex St. Hackensack N. J.		.38	.38
William M. Simmonds Ivy Cottage Fawley Hampshire England		.50 .25	.75
J. Alderson Simms P. O. Box 671 Wheeling W. Va.		2.50	2.50
Hans Simon Siedlinghausen Kreis Brillon Germany		1.00 1.00 1.00	3.00
Emilie I. McGurk Simpson c/o Chas. A. Irwin Esq. 2060 E. 89th St. Cleveland Ohio		1.25	1.25
Robert D. Sinclair c/o Std. Oil Co. Ave. Roque Saenz Peru 567 Buenos Aires Argentina	5.50		5.50
Edward Sinelli 134 W. 26th St. New York N. Y.	5.00		5.00

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Mr. John R. Singleton Scotlandville La.		.50	.50
Mr. S. Janet Singh 38 E. 23rd St. New York N. Y.		5.75	5.75
Isom D. Skaggs c/o Harry Alexander Box No. 997 Seminole Okla.	4.50		4.50
Miss Leah M. Skelton 223 Walnut St. East Orange N. J.	5.00 5.00		10.00
Mr. George L. Slawson 152 W. 72nd St. New York N. Y.		3.75	3.75
Rebekah H. Sleppy c/o Mrs. Rebekah H. Fownes 5922 Howe St. Pittsburgh Pa.		.50	.50
Willem M. Smit Cornelisstract 6 Witgeest Holland		2.72	2.72
Dewitt Smith 328 E. Sprague St. Winston Salem N. Car.		.47 .50	.97
Miss Elizabeth G. Smith 704 Lincoln Ave. Palymra N. J.		3.75	3.75
Mr. Ernest L. Smith 708 Amherst St. Charleston S. Car.		.38	.38
H. M. Smith c/o Mr. C. W. Kingsburg P. O. Box 830 Tulsa Okla.		7.88	7.88
Jack Smith c/o Brandywine Meadow Farm West Chester Pa.		.50 .25	.75

Stipulation of Facts.

Stockholder's Name and Last Known Address	Returned by Post Office	Outstanding	Total
Kenneth C. Smith 115 Richland Ave. Asheville N. C.	2.25 3.00		5.25
Mary McKenzie Smith 187 Annette St. Toronto Ont. Canada		2.50	2.50
Otis F. Smith 440 N. Part St. Seminole Okla.	2.00		2.00
Miss Retta E. Smith 720 S. Denver G-3 Tulsa Okla.	1.50		1.50
Mr. Wallace Smith General Delivery Baton Rouge La.	2.25		2.25
W. Herndon Smith c/o Smith Moore & Co. 509 Olive St. St. Louis Mo.		.75	.75
William F. Smith & Mrs. Helen R. Smith as Joint Tenants Etc P. O. Box 1395 Boise Idaho		5.00	5.00
Mr. Albert J. Smoak 38B Nassau St. Charleston S. Car.		3.75	3.75
Mr. Clifford T. Snyder 901½ Virginia Ave. Parkersburg W. Va.	1.88		1.88
Mrs. Ethel Snyder Round Hill Greenwich Conn.		.50	.50
Mr. Harry A. Snyder 423 E. 5th St. New York N. Y.		1.88	1.88
William L. Snyder 3434 N. 6th St. Harrisburg Pa.		.50	.50

	Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
	Antonio C. Soares Caixa Postal K. K. Sao Paulo Brazil		1.42	1.42
	Oscar Do C. Soares c/o Std. Oil Co. of Brazil Caixa Postal 242 Pernambuco Brazil		.50	.50
	Mr. William A. Sowell Columbus Tenn.		2.50	2.50
	Fred T. Spangler 2009 Belmont St. N. W. Washington D. C.		.50	.50
	Mr. Ernest Sparlin c/o Carter Oil Co. Burbank Calif.		.75	.75
	Mr. Ernest Spears R.F.D. 4 Box 1 Baton Rouge La.		.75	.75
	Mr. Joseph Speever 1065 Prospect St. Hillside N. J.		3.00	3.00
	Mrs. Grace M. Speirs 130 C. St. N.W. Ardmore Okla.		4.50 4.50	9.00
	Mrs. Julia Speiser 2468 7th Ave. New York N. Y.		3.75	3.75
	Mrs. Beatrice K. Speleer 134 E. Genesee St. Syracuse N. Y.		2.50	2.50
	William A. Spencer 1009 Washington Ave. Waco Texas		1.50	1.50
	John W. Spicknall 1009 McKean Ave. Baltimore Md.		1.50	1.50
	Mr. Samuel B. Springer P. O. Box 439 1603 Grace St. Wilmington N. Car.	2.50		2.50

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Richard A. Staderman 397 Commonwealth Ave. Boston Mass.	1.25		1.25
Mrs. Elizabeth S. Stafford Leonard Texas		5.00	5.00
Mr. John Stafford 605 W. 177th St. New York N. Y.		3.75	3.75
Peter Stapper c/o D.A.P.G.V.A. Dusseldorf Bismarkstrasse 44-46 Dusseldorf Germany		.95	.95
Mr. Leon Starbowski 75 W. 19th St. Bayonne N. J.		8.00	8.00
Mr. Jackson A. Starr c/o Mr. M. J. McMullen Red Rock Texas		9.00 15.75	24.75
Jackson A. Starr c/o S. M. McMillen Bill Rock Texas		9.00	9.00
Edward L. Staunton 33 E. 38th St. Bayonne N. J.		1.25	1.25
Lulu Staylor Adm. of the Est. of William A. Staylor 2322 E. North Ave. Baltimore Md.	.75		.75
William E. Steck 325 W. 3rd St. Long Beach Calif.		.50	.50
Mr. Dan C. Steele Jr. St. Andrews Hotel Rm. 218 72nd St. & Broadway New York N. Y.	.25		.25
Mr. Joe Steiger 359 Fulton St. Elizabeth N. J.		.38 .38 .38 .38 .38	1.90

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Rolla Steinheimer 1327 Santee St. Los Angeles Calif.	1.25		1.25
Fritz Steinginger Box 222 Waverly N. Y.		1.00	1.00
Oscar Stern 140 Highland Ave. Middletown N. Y.		1.00	1.00
Mr. Willard M. Steward Box 144 Mountain Lakes N. J.		.38	.38
Mr. Harry E. Steward c/o First National Bk. of Woodsfield Woodsfield Ohio		.50	.50
Harold H. Stewart 5408 20th St. N.E. Seattle Wash.		.50	.50
Joe Stewart 802 Peach St. Baton Rouge La.		.50	.50
Robert L. Stewart 601L Piedmont Rd. Huntington W. Va.		2.50	2.50
Mr. Roger Stewart c/o Humble Pipe Line Co. Box 455 Panhandle Texas		2.25	2.25
Mr. Roger Stewart Akron Lancaster County Pa.		3.00	3.00
Mrs. Diasy W. Stirman P. O. Box 297 Owensboro Ky.		1.50 1.50 .75	3.75
Charles A. Stock 1541 Shelby St. Indianapolis Ind.		2.50	2.50
Frank G. Stock 22 Waverly St. Jersey City N. J.	7.88		7.88

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mrs. Dorothy Stocker 51 Bennett Ave. Arlington N. J.		3.75	3.75
Mr. C. M. Stoddard 202 N. Madison Staunton Va.		1.50	1.50
Mrs. Aillcen Purl Stokes 1355 South Hope St. Los Angeles Cal.	2.25		2.25
Allen J. Strauss 154 Friendly Rd. Auburn R. I.		2.50	2.50
George Strobl c/o D. A. P. G. V. A. Nurnburg Eilgutstrasse 9 Nurnburg Germany		.50 .50 .50 .50 .25 .47	2.72
Mrs. Julia Strong 38 Exeter Ave. Pittsburgh Pa.		.38	.38
Mr. Archie M. Stuart 478 Convention St. Baton Rouge La.		3.00	3.00
Miss Emily McKeen Stuart c/o Jas. L. Stuart Oliver Bldg. Pittsburgh Pa.		3.00	3.00
Sylvia L. Stuckert Caixa Postal 59 Joao Pesson Parahyba Do Norte Brazil		2.00	2.00
Anne Dodge Sturgis 15 Oxford St. Chevy Chase Md.		1.25	1.25
Jose Fernandez Suarez Perdona #5 Regla Cuba		1.00	1.00
Mr. Michael Suit Carnegie St. & Elizabeth St. Linden N. J.	.38		.38

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mr. George Sullivan 3230 Berresford Ave. Cincinnati Ohio		2.50	2.50
Mr. Homer V. Sullivan 350 High St. Newark N. J.		25.88	25.88
Jeff D. Sullivan Box 997 Seminole Okla.	1.88		1.88
Mr. William L. Sullivan c/o Bk. of Erie Tr. Co. Erie Pa.		1.00	1.00
John Hancock Sutliff 8 South Allen St. Albany N. Y.		.25	.25
Mr. Roger E. Sutphin c/o H. L. Francisco R.F.D. 1 Charlevio 14 Mich.	2.25		2.25
Miss Susan Svit Mays Landing N. J.		5.00	5.00
Mr. Joe Svoboda Box 84 R. I. Bedford Ohio		1.25	1.25
Altman B. Swaim Route 1 Box 28 Wilson Okla.		6.50	6.50
Amos Swartzfager R. D. 2 New Bethlehem Pa.		2.50	2.50
Stanislaw Sztamburski Box 147 Van Voorhis Pa.		.50	.50
Helene Catherine Taffard Nee Duffau c/o Mr. R. Fery D Esclands 19 Rue Duphot Paris, France	.76	2.72	2.72
Magdeleine Talazac, nee Tapie c/o Mr. R. Fery Desclands 19 Rue Duphot Paris France		.25	.25

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
George N. Talbot Main St. Hingham Mass.		1.00	1.00
William G. Talley c/o R. H. Talley Mutual Bldg. Richmond Va.		.50	.50
George Targue 306 E. 32nd St. New York N. Y.		.50 .50	1.00
Jack Tatelman & Abraham Lebow as Joint Tenants Etc. 70 Sanders St. Lawrence Mass.		5.00	5.00
Mr. Fred Tavino 327 W. 48th St. New York N. Y.		2.50	2.50
Mr. Clarence C. Taylor East Rochester Ohio		3.00	3.00
Mr. David H. Taylor 703 St. Paul St. Baltimore Md.	4.50		4.50
Ruth E. Taylor 2229 2nd San Diego Calif.		2.00	2.00
Mr. Everett A. Terrell 206 E. Long Ave. Gastonia N. Carolina	1.25		1.25
Mr. Walter N. Thayer Jr. 709 Union Trust Bldg. Baltimore Md.		2.50	2.50
Kek Gwan Thio c/o Ned. Kol. Petr. Mij. Palembang Sumatra D. E. I.		4.00	4.00
R. L. Thomas Box 787 Wilson Okla.		.75	.75
William O. Thomas c/o S. O. Co. of La. Haynesville La.	3.50		3.50

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
William P. Thomas 1016 Guary Shreveport La.		2.00	2.00
Mr. Allan P. Thompson 47 Bowne Ave. Flushing N. Y.		6.00	6.00
Mr. Harry H. Thompson 1230 N. Olden Ave. Trenton N. J.	1.75		1.75
Lewis W. Thompson c/o S. O. Co. of La. Smackover Ark.		1.50	1.50
Harry Ticatah 1881 Gallia Ave. Station A Portsmouth Ohio		.50	.50
Marguerite O. Tickle 1042 Orange St. Charleston W. Va.		.50	.50
Miss Adeline Tiedenian c/o Strasburger Co. 133 Montgomery St. San Francisco Calif.		7.52	7.52
Charles S. Tikowjak 145 Ferry St. Springfield Mass.		5.50	5.50
John F. Tipton Ardmore Okla.	11.50		11.50
Mr. Walter J. Tircuit Plaguemine La.		4.88	4.88
Domingo Tittarelli Calle Anibal 418 Bahia Blanca Argentina Rep.		.50	.50
Mr. James L. Tittsworth c/o Standard Oil Co. of Venezuela Maracaibo Venezuela		9.00	9.00

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Hewitt P. Tomlin Jr. 30 Northwood Jackson Tenn.		1.00	1.00
Remo Tommasi Caixa Postal K. K. Sao Paulo Brazil		1.00	1.00
Robert V. Tompkins 81 W. Union St. Wilkes Barre Pa.		.50	.50
Mrs. Fannie K. Tong The Realty Bldg. Elmira New York		2.50	2.50
Alburn A. Toothman R. F. D. 4 Mannington W. Va.		5.50	5.50
Favorine Torres c/o Standard Oil Co. S. A. A. Avda Roque Saenz Pena 567 Buenos Aires Argentina		3.50	3.50
Marie Antoineet Toujas nee Tapia c/o Mr. R. Fery d Esclands 19 Rue Duphot Paris France		.25	.25
Ray V. Trammell Box 997 Seminole Okla.		.50	.50
W. J. Troutman Box 707 Shaunee Okla.		.38	.38
George H. Tucker Box 997 Seminole Okla.	3.00		3.00
Frank J. Tunstead Alexandria La.	20.00		20.00
Austin H. Turney 331 Johnson Ave. Lawrence Mass.	3.75		3.75

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
William M. Turnley c/o Ethyl Gasoline Corp 302 Bay St. Toronto Ontario Canada	3.75		3.75
Mr. James Twohey 151 Collage St. Springfield Mass.		.75	.75
Patrick Twomey 902 3rd Ave. New York N. Y.	3.50		3.50
W. A. Tydeman Jr. c/o Mr. S. Tydeman 150 Nassau St. New York N. Y..		1.00	1.00
Miss Alys Tyler 150 W. 58th St. New York N. Y.	5.00		5.00
Mr. Joseph J. Uharek 350 Union Ave. Elizabeth N. J.		3.75	3.75
H. Leonard Underhill c/o Peoples Trust Co. Binghampton N. Y.		2.00	2.00
Frank Underwood 1615 Washington Ave. Knoxville Tenn.		7.00	7.00
The Trustees of Union Theological Seminary of Virginia Richmond Va.		6.25	6.25
May H. Vail 305 Franklin Ave. Brooklyn N. Y.		5.00	5.00
Dr. Oscar Bonachea Valdes Lus 10 Vedada Havana Cuba		5.50	5.50
Mr. Charles F. Van Dusen Van Horne Iowa		1.50	1.50

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Abram T. Van Horne Box 256 Chazy N. Y.		1.00	1.00
John Van Lankhuyzen 1317 S. Ashland Ave. Chicago Ill.		3.75	3.75
Mr. Hoghland Van Norden 15 East 58th St. New York N. Y.		1.88	1.88
Marjorie Van Schaick Southport Conn.		5.00	5.00
George N. Van Wieringen c/o Ned. Kol. Pet. Mij. Weltevrden Batavia Java D. E. I.		8.50	8.50
Miss Helen V. Vareia 3440 34th Place N.W. Washington D. C.		.38	.38
Jeanne Vautherin 1 Rue Quentin Bauchard Paris France		.38	.38
Mr. Manuel Vazquez 74 W. 20th St. Bayonne N. Y.		~~8.77~~	8.77
Mrs. Carrie M. Vehslage 71 Myrtle Ave. Irvington N. J.		4.00	4.00
Fracis M. Vernon Jr. Tallulah La.		.50	.50
Miss Matilda Ellen Vidler 42 Rosehill Ave. Toronto Ont. Canada		4.50	4.50
V. Walter Villinger 2712 Hemphill St. Ft. Worth Texas		7.50	7.50
Jess Vincent Box 997 Seminole Okla.	4.00		4.00
John J. Vitek 430 E. 66th St. New York N. Y.		1.00	1.00

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Mario Vitullo 326 Wall St. Elizabeth N. J.		1.25	1.25
B. L. Voskuil c/o U. S. Mortgage & Trust Co. 55 Cedar St. New York N. Y. Acct. #1804	9.00		9.00
Mr. Charles L. Wachter c/o Ledgewood Manor Co. Liberty St. New York N. Y.		5.00	5.00
Mr. Harold W. Walker 1411 Le Claire St. Davenport Iowa		1.25	1.25
Miss Thelma K. Walker 63 W. Seymour St. Philadelphia Pa.	.50	1.72	2.22
Miss Vera K. Wall c/o R. E. La Grange Fort Ann N. Y.		1.88	1.88
William G. Wall 519 Henry St. S. W. Roanoke Va.		1.50	1.50
Frederick Wallace 10 Manhattan Ave. New York N. Y.	7.50	2.50	10.00
William L. Wallace c/o M. H. Thomas Co. Dallas Texas		10.00	10.00
Miss Elizabeth A. Walsh 551A Lafayette Ave. Brooklyn N. Y.	2.50		2.50
Mr. Harry Walsted 41 Whitmore St. Hartford Conn.		.25	.25
Martha A. Walton 5541 Everett Ave. Chicago Ill.		6.00	6.00
Harry A. Walt 1607 Light St. Baltimore Md.		.50	.50

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Roy O. Wanvig Standard Oil Co. of N. J. 26 Broadway Marine Dept. New York N. Y.	10.50		10.50
Mrs. Emma J. Ward 831 Calvert St. Norfolk Va.		2.50	2.50
Frank J. Ward 234 Virginia Ave. Jersey City N. J.	9.50		9.50
Jose R. Ward c/o Standard Shipping Co. 26 Broadway New York N. Y.	2.00		2.00
Mary Warg 811 Wheeler Ave. Scranton Pa.		.50	.50
Mr. Charlie Washington R. F. D. 3 Box 6 Baton Rouge La.		.75	.75
Mr. William Washington Jr. R. F. D. 1 Box 83 Baton Rouge La.		.50	.50
Conrad Waters 41 Park Row New York N. Y.		2.50	2.50
Mrs. Nellie Lunt Watkins 360 Marion St. Denver Colo.		5.00	5.00
James E. Weaver 32 Tompkins Circle Tompkinsville S. I. N. Y.		.50	.50
Mr. Albert F. Webb Paxton Hotel Omaha Nebraska	1.13		1.13
Hurley H. Webb Filot Mountain North Carolina	8.25		8.25

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Mr. Carl Weber 5207 Avaolon Blvd. Los Angeles Calif.	9.38		9.38
Miss Dorothy Weidman c/o Lawrence Public School Lawrence Kans.		97.00	97.00
Rose Weill 267 W. 70th St. New York N. Y.		2.50	2.50
Mr. Phil Weiss 1009 Main St. Cleveland Ohio		1.88	1.88
Ruth B. Wells 312 Locust St. Findlay Ohio		.38	.38
Mr. John H. Wenderoth Stemmers Run Baltimore Md.		.50	.50
Miss Pauline Wenger 970 Park Ave. New York N. Y.		1.00	1.00
Mr. Alfred J. Werner 145 Thomas St. Newark N. J.		.50	.50
Bailey A. West 121 Walnut St. Philadelphia Pa.		1.25	1.25
Mr. Thomas J. West 216 Imperial St. Calexio Cal.		2.00	2.00
Mrs. Emma Westenhaver Logan Ohio	25.00		25.00
Chester H. Westfall 911 Overbrook Ave. Ponca City Okla.		5.00	5.00
Mrs. Elizabeth A. Weston 325 Goddard Ave. Brooklyn Mass.		2.50	2.50

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Louis Wexler 193 E. 12th St. Brooklyn N. Y.	10.00		10.00
Mr. Harry Montford Whitacre New Sharon Ohio		.75	.75
Bob White 1728 Gracie St. Baton Rouge La.	1.50		1.50
Eddie White R. F. D. 1 Box 17 Zachry La.		1.50	1.50
Mr. Edward C. White 1815 East 86th St. Cleveland Ohio		3.76	3.76
John B. White c/o O. E. Cherry Box No. 372 Snomax Okla.		3.00	3.00
John O. White General Delivery Eldorado Kans.	1.88	2.50	4.38
Leonard B. White 59 Maiden Lane New York N. Y.		1.00	1.00
Virginia M. White 301 E. 38th St. Apt. 5-G New York N. Y.	5.00		5.00
Joseph P. Prescott Trustee for Gertrude G. Whiting U/A February 9, 1931 18 Wellesby Rd. Holyoke Mass.		3.00	3.00
Donie W. Whittington General Delivery Baton Rouge La.	1.50		1.50
James D. Whitty 1515 Florida St. Baton Rouge La.	.50		.50
Miss Helmi Wilkstrom 4395 Grand Blvd. Chicago Ill.	1.00		1.00
Elizabeth M. Willett 28 Glencoe Rd. Chestnut Hill Mass.		2.50	2.50

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
David G. Williams 3404 Mt. Pleasant Ave. Baltimore Md.		4.88	4.88
Mr. Edward F. Williams 326 8th Ave. Huntington W. Va.	.50		.50
Mr. Jack Williams 850 2nd Avenue Elizabeth N. J.		6.38	6.38
Mr. John Williams Jr. 1114 Bushwick Ave. Brooklyn N. Y.		.50	.50
Sindia Nora Williams c/o R. Bruce Hill Norfolk Va.		3.00	3.00
Mr. Walter Gordon Willson Webster City Iowa		.50	.50
Charles Wilson c/o Lloyds Bank Limited 112 High St. Kensington London W8 England		5.00	5.00
Leslie F. Wilson 311 West Orange St. Wewoka Okla.	6.50		6.50
Mr. Merrill W. Wilson c/o Humble Oil Pipe Line Co. Box 455 Panhandle Tex.	1.50		1.50
Mr. Thomas Wilson Gumes Iowa		1.50	1.50
Geo. W. Wilt Flemingsburg Ky.		.50	.50
Miss Anna Winkler 211 E. 11th St. New York N. Y.		5.00	5.00
Mr. Edward T. Winslow 1044 Craigdarrock Rd. Victoria B. C. Canada		.25	.25

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Wallace D. Winslow c/o Mrs. Metta J. Winslow Gdn. 1610 Eutaw Place Baltimore Md.	7.00		7.00
Alton P. Winstead 1146 Abby Place N.E. Washington D. C.		7.50	7.50
Etta Winter 254 E. 35th St. New York N. Y.	1.00		1.00
Reinhold Witt c/o Standard Shipping Co. 26 Broadway New York N. Y.		7.50	7.50
Bernard Wolff 87 Perry St. Brookline Mass.		2.50	2.50
Baron William John Anthony Taets Van Amerongen Tot Wondenberg c/o J. L. Van Der Heyden 5021 17th Ave. NE. Seattle Washington		76.00	76.00
Fong Wong c/o Ned. Kol. Petr. Mij. Palemberg Sumatra D. E. I.		3.50	3.50
Walter P. Wood Box 997 Seminole Okla.	5.25		5.25
Mr. Raymond L. Woodard 2103 Spain St. New Orleans La.	.50		.50
Rev. Clarence E. Woodman Newman Hall 2630 Ridge Road Berkeley Cal.		20.00	20.00
Mr. David Woods 1926 Convention St. Baton Rouge La.		.50	.50
James J. Wright 451 S. Broad St. Elizabeth N. J.	9.50		9.50

Stipulation of Facts.

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Anthony J. Wyville 1875 Ingleside Terrace N.W. Washington D. C.		1.75	1.75
Miss Jean Lynn Yeagle 2101 New Hampshire Ave. N.W. Washington D. C.		3.50	3.50
Mr. Guy H. Yerkey 274 Magnolia Ave. Clarksburg W. Va.		11.88	11.88
Mr. Leo. P. Zajac Apt. 657 Tampico Mex.	11.63		11.63
Sam Zlotnik 1852 Park Ave. New York N. Y.		7.50	7.50
Rodolfo Zuazo G. c/o Casilla 669 24 Socabaya St. La Paz Bolivia		3.00	3.00
Mr. Henry C. Zumpa 2609 California St. San Francisco Cal.		4.50	4.50
Johannis Zwamborn Humse Hardenberg Holland		4.00	4.00
Mr. Clifford F. Zylks c/o Standard Oil Co. of La. Bin 1 Smackover Ark.		6.75	6.75
Mrs. Christina Bolton 106 Borgard St. Charleston, South Carolina	.50	15.27	15.27
William R. Dodge P. O. Box 1445 New Orleans, La.	.50	7.72	8.22
Mrs. Laura T. Griffith 2520 L. St. N.W. Apt. 205, Washington, D. C.		32.25	32.25
Mrs. Francis G. Perrin 54 South Los Robles Pasadena, California		36.12	36.12
Mrs. Maude Rosenfield White 17 West Market St. York, Pa.		1.47	1.47

CHECKS FOR DIVIDENDS PAYABLE ON PREFERRED STOCK OF DEFENDANT
EXHIBIT 2 (Continued)

Stockholders Name & Last Known Address	Returned by Post Office	Outstanding	Total
Bessie R. Buehler 600 W. 174th St. New York, N. Y.	$ 3.50		$ 3.50
Louise Buisson Paris France		$ 3.50	3.50
Mrs. Elizabeth A. Donovan Duffley Hotel Biltmore 43rd St. & Madison Ave. New York, N. Y.	35.00	17.50	52.50
Mrs. Anne W. Geigerman Sherman Square Hotel Bway & 70th St. New York, N. Y.		43.75	43.75
Miss Dorothy A. Haight c/o Mrs. Kirkpatrick 30 W. 36th St. New York, N. Y.		17.50	17.50
Jacob J. Hawes 101 E. 41st St. Kansas City, Mo.	35.00		35.00
Anna M. Short Emma H. Bostwick & Harry C. Hunt Distributors U/W & Testament of Mrs. Emma L. Hunt c/o William F. Humphrey 705 Standard Oil Bldg. San Francisco, Calif.		17.50	17.50
Mrs. Louise R. Kiesel 515 Lackawanna Ave. Scranton, Pa.		1.75	1.75
Mr. William Anton Schmidt Dewey Ave. Queens L. I. N. Y.	17.50		17.50
Baldy L. Whitehead & Emma H. Whitehead As Joint Tenants Etc 437 Columbus Ave. Boston, Mass.	21.00		21.00

Exhibit 3

Shares of the Common Stock of defendant still standing of record in the names of individuals who have failed to receive dividend checks for a period of 14 years or more immediately prior to the commencement of the within proceedings, together with unpaid dividends and other unpaid claims flowing out of the ownership of such stock.

Stockholder's name and last known address.....	Douglas Clark 648 Maple Ave. Elizabeth, New Jersey			
Number of shares of stock.....			1	
	Returned by Post Office	**Outstanding**	**Total**	
Total of unclaimed and outstanding checks for dividends payable between 1918 and July 27, 1934	$ 4.22	$ 1.00	$ 5.22	
Total of unclaimed checks for dividends payable between July 27, 1934 and July 27, 1948	$ 33.24	—	$ 33.24	
Other unpaid claims.....	Cash from sale of scrip of Mission Corp. payable 3/15/35		$ 1.02	
	6/10/48 Series D scrip, expires 6/30/49.....		5/200ths	
Stockholder's name and last known address.....	Eugene Denos 342 W. 22nd St. New York City			
Number of shares of stock.....			3	
Total of unclaimed and outstanding checks for dividends payable between 1918 and July 27, 1934	$ 11.17	$ 1.50	$ 12.67	
Total of unclaimed checks for dividends payable between July 27, 1934 and July 27, 1948.....	$ 99.71	—	$ 99.71	
Other unpaid claims.....	Cash from sale of scrip of Mission Corp. payable 3/15/35		$ 3.06	
	6/10/48 Series D scrip, expires 6/30/49		15/200ths	
Stockholder's name and last known address.....	Arturo Fernandez Calle 56 No. 486 Melida Yuc. Mexico			
Number of shares of stock.....				

	Returned by Post Office	Outstanding	Total
Total of unclaimed and outstanding checks for dividends payable between 1918 and July 27, 1934	$ 56.90	$11.25	$ 68.15
Total of unclaimed checks for dividends payable between July 27, 1934 and July 27, 1948	$130.35	—	$130.35
Other unpaid claims			
Cash from sale of Mission Corp. scrip Payable 3/15/35			$ 4.08
6/10/48 Series D scrip, expires 6/30/49			20/200ths
Stockholder's name and last known address	Miss Agnes S. Thompson R. 1 Box 256 Watsonville, Cal.		
Number of shares of stock			1
Total of unclaimed and outstanding checks for dividends payable between 1918 and July 27, 1934	$ 3.22	$ .50	$ 3.72
Total of unclaimed checks for dividends payable between July 27, 1934 and July 27, 1948	$ 33.24	—	$ 33.24
Other unpaid claims			
Cash from sale of Mission Corp. scrip Payable 3/15/35			$ 1.02
6/10/48 Series D scrip, expires 6/30/49			5/200ths
Stockholder's name and last known address	Joseph B. Webster 375 Lake St. River Forest, Ill.		
Number of shares of stock			3
Total of unclaimed and outstanding checks for dividends payable between 1918 and July 27, 1934	$ 36.71	$ 2.26	$ 38.97
Total of unclaimed checks for dividends payable between July 27, 1934 and July 27, 1948	$ 99.71	—	$ 99.71
Other unpaid claims			
Cash from sale of Mission Corp. scrip Payable 3/15/35			$ 3.06
6/10/48 Series D scrip expires 6/30/49			15/200ths

Exhibit 4

Available details with respect to amounts deducted from wages of former employees to pay Liberty Loan Subscriptions by such employees which amounts have not been paid to such employees, all of whom left the service of the defendant more than fourteen years prior to the commencement of the within proceedings. See Schedule A annexed to Answer.

Year	Subscription No.	Name	Location	Amount
1918	1810	Cosmos, Paul	Bayonne Refinery	$ 2.50
	4023	White, Jas.	"	7.50
	5224	Moran, John	"	5.00
	5411	Stock, John	"	7.50
	5620	Chipinski, Stanislaw	"	2.50
	5677	O'Donnell, M. F.	"	2.50
	5795	Cohula, Joe	"	2.50
	4237	Sekot, Steve	Bayonne Bbl. Fcty.	2.50
	4257	Sapinski, Wm.	"	2.50
	4259	Burda, Jas.	"	2.50
	1024	Leonard, Stanley	Bayway	2.50
	1099	Gates, Wm. A.	"	7.50
	1265	Sandborg, Oskar	"	37.50
	2804	Keegan, Patrick	"	5.00
	3008	Godaetas, Geo.	"	15.00
	3592	Lenser, Rudolph	"	5.00
	1948	Cook, Fred.	Case & Can—Bayonne	2.50
	1955	Plaski, John	"	12.50
	1956	Greco, Antonio	"	2.50
	4429	Paulie, Jas.	"	7.50
	6677	Serhan, B.	"	2.50
	6685	Gagnon, Leon E.	"	2.50
	6823	Dmytro, Myrna	"	5.00
1919	13946	Hennesey, J.	Foreign Shipping	10.00
	13950	Hamilton, John	"	5.00
	13952	Emory, E. Y.	"	10.00
	12336	Yaniga, Yan	Bergenport	2.50
	12341	Skolski, John	"	2.50
	12469	Duncan, J.	"	5.00
	12490	Tioni, F.	"	5.00
	15249	Finski, Max	"	2.50
	9306	Mahon, P.	Bayonne Refinery	2.50
	9308	Malley, Patrick	"	5.00
	9832	Carney, John	"	5.00
	10390	Robinson, John	"	5.00
	17020	Nackoviez, John	"	2.50
	17033	Kinkewitz, Tony	"	2.50
	17133	Cowhut, Mike	"	7.50

Year	Subscription No.	Name	Location	Amount.
	10680	Bask, Nicholas	Bayway	32.50
	10810	Hunt, Clarence	"	2.50
	10975	Paserin, Pacran	"	10.00
	10978	Brodoski, Anton	"	15.00
	11108	Aslesen, Thomas	"	5.00
	11977	Schmidt, Henry	"	2.50
	16226	Weidenburch, J.	"	2.50
	16120	Tyll, Leo	"	2.50
	15018	Taylor, Thomas	Bayonne Coop.	2.50
	12788	Jackowie, J.	Case & Can	2.50
	12797	Zanouski, J	"	2.50
	12950	Pukas, H.	"	2.50
	18064	Rakalowicz, T.	"	2.50
	18081	Lobna, L.	"	2.50
1919	18208	Kalodzy, T.	Case & Can	$ 10.0
	20560	Salisbury, F. L.	Foreign Ship. Dept.	20.00
	20612	Geisler, J. R.	"	15.00
	20614	Gilloy, F.	"	10.00
	20666	Petersen, Axel	"	20.00
	20669	Berg, John	"	10.00
	23666	Kowczeweki, Frorcizck	Bayonne Coop.	2.50
	23669	Olston, M.	"	2.50
	23743	Sievzputaski, Adam	"	2.50
	24267	Lunza, J.	Case & Can	20.00
	23598	Capko, C.	Bayonne Bbl. Fcty.	2.50
	30430	Geigel, M.	"	5.00
	20749	Mayer, John	Bayonne Refinery	5.00
	20855	Carroll, J.	"	27.50
	20960	Sullivan, John	"	2.50
	21733	Bayer, J.	"	2.50
	22259	Basile, Luigi	"	2.50
	21906	Plasko, John	"	22.50
	23110	Baontsky, J.	"	2.50
	23324	Popolek, J.	"	2.50
	23398	Osbourne, Henry	"	2.50
	29800	Strysnicki, S.	"	25.00
	29908	McMahon, John	"	10.00
	24950	Polonius, John	Bayway Refinery	2.50
	25077	Borok, Nicholas	"	25.00
	25411	Cuyosky, Tom	"	2.50
	25459	Rokowsky, Joseph	"	2.50
	25784	Kowalski, Frank	"	2.50
	25946	Kopp, W.	"	2.50
	25963	McGann, T.	"	2.50
	26396	Devine, P.	"	2.50
	26682	Rosin, John	"	2.50
	29241	Grossman, R.	Newark Br.	5.00

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Year	Subscription No.	Name	Location	Amount	Year	S
1920	52386	Bool, N.	Foreign Ship. Dept. N. Y.	5.00		
	52387	Bovicha, J.	"	5.00		
	52389	Bustillo, Ramon	"	20.00		
	52391	Carabaja, R.	"	20.00		
	52394	Castro, J.	"	5.00		
	52427	Kneble, John	"	10.00		
10	52438	Kennedy, M. M.	"	5.00		
	52430	Kidert, Robert	"	5.00		
	52474	Pierce, A. C.	"	25.00		
	52485	Scope, Gladys	"	5.00		
	52499	Tracy, James R.	"	25.00		
	52500	Trunlik, August	"	10.00		
	52503	Wallin, C.	"	5.00		
	52512	Eklund, Sven	"	100.00		
	52519	Segee, Chas. H.	"	30.00		
	45655	LaConte, Salvatori	Bayway Refinery	2.50		
	46266	Skelodreck, S.	"	2.50		
	46510	Gallagher, W.	"	2.50		
	46630	Best, L.	"	2.50		
20	46649	Emerick, E.	"	5.00		
	46121	Smith, F.	"	2.50		
	40836	Polansky, Chas.	Bayonne Refinery	10.00		
	41514	Golda, John	"	2.50		
	42393	Reber, H.	"	5.00		
	41246	Reina, S.	"	2.50		
	43944	Cremoneci, G.	Bergenport Chem. Wks.	2.50		
	44295	Suran, C.	Case & Can	2.50		
	44372	Shabonovich, S.	"	2.50		
1920	44606	Polotnianka, A.	Case & Can	$ 5.00		
	51571	Kowikki, M.	"	2.50		
	43655	Koorhan, Barney	Bayonne Coop.	2.50		
30	43667	Chavaskar, Harry	"	5.00		
	43717	Butler, Louis	"	10.00		
	14863	Macauley, Wm.	Foreign Ship.	5.00		
	4803	Kucher, J.	Case & Can	5.00		
	5026	Couzo, J.	"	2.50		
	5050	Beiro, A.	"	2.50		
	5100	Majkzok, J.	"	10.00		
	5459	Mandel, H.	"	20.00		
	4245	Chergia, G.	Barrel Factory	2.50		
	1176	Lerwsinovic, Toney	Bay. Refinery	40.00		
	1666	Prieto, E.	"	2.50		
	2030	Kolokowsky, Vin.	"	5.00		
	2332	Warzuy, Ignatino	"	15.00		
40	2878	Savage, Bernard	"	5.00		
	2885	Komaroski, Adam	"	2.50		

Amount	Year	Subscription No.	Name	Location
5.00		1831	Sisko; Adam	"
5.00		14354	Gayles, Allen J.	"
20.00		6538	Ortzel, J.	Bayonne Refinery
20.00		6671	Komorowski, Julino	"
5.00		6793	McMillan, T.	"
10.00		7221	Young, C.	"
5.00		7615	Harris, E.	Bayway Refinery
5.00		7811	Pisony, S.	"
25.00		7941	Placo, A.	"
5.00		8174	Laghman, E.	"
25.00		8347	Sanecki, A.	"
10.00		8400	Patsley, S.	"
5.00		8515	Buhlewicz, P. J.	"
100.00		8771	Brown, H.	"
30.00		8871	Polley, P.	"
2.50		9158	Banks, L.	"
2.50		9228	Eyer, Herman	"
2.50		9419	Parchesky, S.	"
2.50		9495	Ritter, J.	"
5.00		9601	Sok, Z.	"
2.50		9630	Norwalk, A.	"
10.00		9690	Poliwodo, W.	"
2.50		9771	Evans, L.	"
5.00		9814	Gallagher, Wm.	"
2.50		9962	Rocosky, M.	"
2.50		10003	Niles, R.	"
2.50		10006	Powers, P.	"
2.50		10118	McLoughlin, W.	"
		10179	Eikerson, J. J.	"
5.00		10292	Costello, H.	"
2.50		10315	Kennedy, J.	"
2.50		14569	Lumbberg, G.	"
5.00		14643	Panisis, T.	"
10.00		14657	Connor, W. J.	"
5.00		7668	Menafra, J.	"
5.00				
2.50				
2.50				
10.00				
20.00				
2.50				
40.00				
2.50				
5.00				
15.00				
5.00				

Exhibit 5

Available details with respect to checks issued for merchandise or service claims against defendant which checks never cleared the banks against which they were drawn.

See Schedule A.

CRUDE OIL PURCHASE CHECKS

	Date	Check No.	Name	Address	Amount	Bank on which drawn	Date
	1/ 7/08	38025	R. W. Rutherford et al H. E. McGregor Atty.	Parkersburg, W. Va.	$ 46.17	Seaboard Nat'l Bk of the City of NY	4/ 7/1 4/26/1 6/12/1
	5/ 1/08	81533	Jacob Snyder Mrs. Eliza Snyder Atty.	Toledo, Ohio	22.42	" "	6/14/1
	5/ 5/08	59562	Aaron C. Ungerer	Lima, Ohio	1.74	" "	7/ 5/1
	6/ 2/08	60873	Geo. A. Bowlus	Lima, Ohio	63.22	" "	
	6/ 4/08	40453	Edward Jackson	Parkersburg, W. Va.	16.11	" "	
	6/27/08	62035	Fred W. Willson	Lima, Ohio	16.16	" "	7/17/1
	7/ 1/08	6812	Margaret Weber Atty Margaret Weber et al	Woodsfield, Ohio	450.31	" "	
20	7/ 7/08	40315	L. E. Stout	Mannington, W. Va.	32.27	" "	7/20/1
	7/14/08	48279	Branden Arnett	Sistersville, W. Va.	6.34	" "	0/11/1
	7/21/08	98819	Jacob Schenkel	Marietta, Ohio	11.53	" "	1/ 1/1
	8/ 8/08	83718	W. E. Dowling	Toledo, Ohio	15.63	" "	1/ 9/1
	11/ 7/08	30213	Eleanor E. Scherrer	Pittsburg, Pa.	9.65	" "	2/ 8/1
	1/13/09	51768	Griffithsville Land Co.	Pittsburg, Pa.	15.31	" "	
	1/27/09	12889	T. Bradstock	Montpelier, Ohio	12.08	" "	
	2/ 6/09	8153	Jamestown Lumber Co.	Titusville, Pa.	6.37	" "	not vailable
	2/11/09	73135	J. W. Magnes Gdn	Lima, Ohio	1.19	" "	
	2/25/09	65356	M. F. Leathers	Findlay, Ohio	9.22	" "	"
	2/27/09	65403	Montgomery & Stitt	Findlay, Ohio	1,526.23	" "	
	3/18/09	71641	Thos. Sergeant	Oil City, Pa.	11.08	" "	2/29/1
30	6/29/09	14553	E. W. Polley	Muncie, Indiana	19.72	" "	5/31/2
	7/ 2/09	80022	Louisa Tickle Gdn	Lima, Ohio	3.62	" "	
	8/ 2/09	12239	F. H. Hurd Atty E. C. Hurd	Marietta, Ohio	11.39	" "	4/17/2
	10/13/09	56686	A. E. Elvier	Pittsburg, Pa.	32.58	" "	
	12/ 3/09	57588	Chas. Brown Sons	Pittsburg, Pa.	92.03	" "	4/17/2
	3/ 2/10	70348	W. S. Eberly,	Findlay, Ohio	42.55	" "	7/ 2/2
	4/ 7/10	53396	M. L. Morris Atty self et al	Mannington, W. Va.	6.62	" "	7/ 2/2
	4/ 9/10	92413	J. D. Jones Agt & Atty	Lima, Ohio	8.81	" "	
	4/14/10	21901	Simpson L. Horn	Montpelier, Ohio	19.48	" "	9/29/2
	5/ 2/10	93192	T. J. Jones	Lima, Ohio	24.28	" "	1/ 5/2
40	5/26/10	17507	Linnie L. McDaniel	Muncie, Indiana	5.77	" "	1/18/2
	9/ 2/10	98877	Louisa Tickle Gdn	Lima, Ohio	1.31	" "	
	9/ 8/10	87862	E. H. Goodenough	Oil City, Pa.	23.19	" "	
	12/17/10	25525	Susannah Saxon	Montpelier, Ohio	12.57	" "	

CRUDE OIL PURCHASE CHECKS

is against drawn.	Date	Check No.	Name	Address	Amount	Bank on which drawn	
	12/20/10	63304	E. Booth	Sistersville, W. Va.	7.40	" "	
	12/30/10	40974	L. R. C. Howard	Marietta, Ohio	11.56	" "	
	2/ 1/11	42753	E. E. Kelsey	Marietta, Ohio	17.78	" "	
	2/ 3/11	5449	Louisa Kiser	Lima, Ohio	9.49	" "	
ank on h drawn	3/ 2/11	93260	J. P. Williams Gdn Geo. E. Leopold	Oil City, Pa.	7.70	" "	10
ard Nat'l of the City Y	4/ 7/11	99533	Wm. H. Cundiff	Oil City, Pa.	50.57	" "	
	4/26/11	16995	D. W. Cochran	McDonald, Pa.	7.31	" "	
	6/12/11	4581	E. S. Wynn C. L. Wynn Atty	Toledo, Ohio	34.75	" "	
"	6/14/11	65145	James M. Curry	Pittsburg, Pa.	1.20	" "	
"	7/ 5/11	62817	Wm. M. & Altha L. Swiger	Mannington, W. Va.	4.78	" "	
"	7/17/11	95626	Nicholas Oehms	Pittsburg, Pa.	$1.92	Seaboard Nat'l. Bk. of City of N. Y.	
"	7/20/11	66858	A. F. Latta	Sistersville, W. Va.	13.13	" " "	20
"	10/11/11	77860	Eugene Mercer	Findlay, Ohio	12.16	" "	
"	11/ 1/11	16327	R. M. Evans	Lima, Ohio	7.52	" "	
"	11/ 9/11	7216	Maria Chambers	Toledo, Ohio	8.98	" "	
"	12/ 8/11	65909	Lewis C. Lawson	Mannington, W. Va.	23.71	" "	

OTHER CHECKS

"	not vailable	3736	Not available	Not available	$ 6.85	National City Bank	
"	"	47510	"	"	18.90	First Natl. Bank Jersey City	
"	12/29/13	D8319	John Gibbons	"	15.00	" "	
"	5/31/23	N65144	C. Heemskirk	"	116.19	Chase Natl. Bank, of N. Y.	30
"	4/17/23	E53830	D. Casey	"	178.65	Natl. Bk. of Comm. in N. Y.	
"	4/17/23	E53969	Gerald Tervl	"	1.79	" "	
"	7/ 2/26	E53966	A. G. Olsson	"	73.47	" "	
"	7/ 2/26	F28552	Mrs. Anne Grey c/o Mrs. Rollin, Apt. 2W, 311 W. 144 St. N. Y. C.	—	30.00	" "	
"	9/29/26	F33217	John Crovan	Not available	1.20	" "	
"	1/ 5/23	F47064	J. Torrenti	"	10.60	" "	
"	1/18/23	E48187	E. Anderson	"	14.40	" "	40
"					$3,319.96		

10

Exhibit 6.

Specimen of Dividend Checks Mailed by the Guaranty Trust Company between 1918 and 1942, to Stockholders of Defendant.

20

(*Opposite* ☞)

30

40

DIVIDEND No. 153

STANDARD OIL COMPANY

(INCORPORATED IN NEW JERSEY)

No. 286 G-52000

NEW YORK, DECEMBER 15, 1941

Guaranty Trust Company of New York

PAY

TO THE ORDER OF

EXACTLY $79.50

MRS. HILDRED C. HARRINGTON,
BANK OF MANHATTAN TRUST CO.,
31 UNION SQUARE,
NEW YORK, N.Y.

Guaranty Trust Company of New York

DISBURSING AGENT.

AUTHORIZED SIGNATURE.

Amendments to Answer.

(Filed June 13, 1949.)

And now, this 9th day of June, 1949 the defendant, Standard Oil Company, with the consent of the attorney for the plaintiff The State of New Jersey, amends its answer heretofore served and filed in the above cause, as follows:

It substitutes for paragraphs VIII, IX, X and XI of said answer, the following:

Second Defense.

VIII. This defendant denies that the State of New Jersey has any valid claim against it under R. S. 2:53-15 to 2:53-32, or otherwise, with respect to any of said claims. This defendant alleges that all of the said claims or choses in action set forth in Schedule A and any and all causes of action with relation thereto accrued and arose against defendant more than six years prior to the date of the enactment of R. S. 2:53-15 to 2:53-32 as well as more than six years prior to the institution of these proceedings.

IX. Defendant further alleges that, at the time of the enactment of the statute above mentioned, any right of action based on said claims or choses in action had been barred by the Statute of Limitations in such causes made and provided (R. S. 2:24-1), and that such claims and choses in action had been legally extinguished and had become completely unenforceable against defendant.

Amendments to Answer.

X. Defendant further alleges that, at the time of the enactment of said statutory provision, it had a vested right in the defense of the Statute of Limitations to all of such claims which the Legislature had no power to divest either in the interest of the claimants or of the State of New Jersey.

XI. Defendant alleges that R. S. 2:53-15 to 2:53-32 if construed so as to provide for the escheat to the State of any of such claims, is unconstitutional in that it was enacted in violation of Article I, Paragraph 1, of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution, which said paragraphs are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State in that it violates the right of the defendant to acquire, possess and protect property and in that it takes the property of this defendant for the public use of the State of New Jersey without compensation, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives this defendant of its property without due process of law.

It substitutes for paragraphs XII and XIII of said answer, the following:

THIRD DEFENSE.

XII. This defendant alleges that none of the contracts which gave rise to the claims or interests in property set forth in Schedule A or in the exhibits attached to the stipulation of facts filed in this proceeding were made in New Jersey nor to be performed in

this state; that such contracts were in fact enforceable elsewhere; that with the exception of the claimants shown in Schedule A or in the exhibits attached to the stipulation of facts filed in this proceeding as having last known addresses within this State, none of the persons listed in such Schedule or exhibits as formerly entitled to the claims set forth therein, ever were residents of or domiciled in New Jersey; that the State of New Jersey has no jurisdiction of the choses in action set forth in Schedule A, or in the exhibits attached to the stipulation of facts filed in this proceeding because such choses in action never had a situs in the State of New Jersey for the purpose of escheat; that said claims, if subject to escheat in any jurisdiction would be subject to escheat in jurisdictions other than in New Jersey; that any attempted exercise of dominion by the State over the claims set forth in Schedule A or in the exhibits attached to the stipulation of facts filed in this proceeding would be unwarranted and void, and any decree of this court which purported to discharge this defendant from its obligation to pay such claims would be of no force and effect and not binding on the persons entitled to said claims or interests in property in this or any other state; nor upon any other jurisdiction which might seek to escheat said claims in this or or any other state, in that such a decree would be one entered without jurisdiction of either the subject matter of such cause or the persons whose claims would be escheated thereby. The defendant says that insofar as

R. S. 2:53-15, *et seq.* requires this defendant to pay or transfer to the State the amounts of such claims or interests in property without discharging defendant's obligations thereunder, said R. S. 2:53-15, *et seq.* is unconstitutional in that it was enacted in violation of Article I, Paragraph 1, of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution, which said paragraphs are substantially identical with Paragraphs I and 20 of Article I of the Constitution of 1947 of this State, in that it violates the right of the defendant to acquire, possess and protect property and in that it takes the property of this defendant for the public use of the State of New Jersey without compensation, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives this defendant of its property without due process of law.

It adds to the said answer the following additional defenses.

FOURTH DEFENSE.

XIII. The defendant alleges that R. S. 2:53-15, *et seq.* provides that a notice containing a summary of the order designating the time and place of hearing shall be published in a certain manner, and that if the personal property of any one owner is less than fifty dollars ($50.00), publication may be dispensed with if the court so directs.

The defendant further alleges that R. S. 2:53-15 *et seq.* requires no notice or publication of the details of the property sought to

be escheated, nor the names or addresses of the persons entitled thereto, and gives the court the right to dispense with notice as aforesaid and that said Act is unconstitutional in that it was enacted in violation of Article I, Paragraph 1, of the Constitution of 1844, which said paragraph is substantially identical with Paragraph 1 of Article I of the Constitution of 1947 of this State, in that it violates the right of the persons whose property is sought to be escheated to acquire, possess and protect property, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives such persons of their property without due process of law.

The defendant alleges that any attempted exercise of dominion by the State over the claims set forth in Schedule A or in the exhibits attached to the stipulation of facts filed in this proceeding would be unwarranted and void, and any decree of this court which purported to discharge this defendant from its obligation to pay such claims would be of no force and effect and not binding on the persons entitled to said claims in this or any other State, nor upon any other jurisdiction which might seek to escheat such claims, in that such a decree would be one entered under the authority of an invalid act and without jurisdiction of either the subject matter of such cause or the persons whose claims would be escheated thereby. The defendant says that insofar as R. S. 2:53-15 *et seq.* requires this defendant to pay to the State the amounts of such claims without discharging defend-

ant's obligations thereunder, said R. S. 2:53-15 *et seq.* is unconstitutional in that it was enacted in violation of Article I, Paragraph 1, of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution, which said paragraphs are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State in that it violates the right of this defendant to acquire, possess and protect property and in that it takes this defendant's property for the public use of the State of New Jersey without compensation, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives this defendant of its property without due process of law.

FIFTH DEFENSE.

XIV. The defendant alleges that R. S. 2:53-15 et seq. provides that any person whose property may have escheated to the State as provided therein may apply to the Court within two years after the decree of escheat, and upon a showing of a lack of actual knowledge of such proceedings, and of proof of ownership of such property or the right to possession thereof, the Court may in its discretion reopen the decree and direct the State Treasurer to return the property to such person. The defendant says that said R. S. 2:53-15 provides no right of appeal from the refusal of the Court to reopen the decree of escheat.

The defendant further alleges that R. S. 2:53-15 et seq. provides for the escheat of

property but does not require that the owner thereof be given adequate notice of the pendency of proceedings thereunder and gives the owner of such property no right of recovery against the State, but only the right to solicit a favorable exercise of the discretion of the Court, without appeal; that said statute is invalid in that it was enacted in violation of Article IV, Section 7, Paragraph 3 of the Constitutions of 1844 and of 1947 of this State, and Article 1, Section 10, Paragraph 1 of the Constitution of the United States, in that it impairs the obligation of the contracts between defendant and the persons entitled to the claims or property set forth in Schedule A and also deprives such persons of their remedies for enforcing such contracts and also in violation of Article I, Paragraph 1 of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution which two last mentioned paragraphs are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State in that it violates the right of said persons to acquire, possess and protect property and in that it takes the property of such persons for the public use of the State of New Jersey without compensation, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives such persons of their property without due process of law.

The defendant alleges that any attempted exercise of dominion by the State over the claims set forth in Schedule A or in the exhibits attached to the stipulation of facts filed in this proceeding would be unwarranted and void, and any decree of this court which pur-

ported to discharge this defendant from its obligation to pay such claims would be of no force and effect and not binding on the persons entitled to said claims in this or any other State, nor upon any other jurisdiction which might seek to escheat such claims, in that such a decree would be one entered under the authority of an invalid act and without jurisdiction of either the subject matter of such cause or the persons whose claims are escheated thereby. The defendant says that insofar as R. S. 2:53-15, et seq. requires this defendant to pay to the State the amounts of such claims without discharging defendant's obligations thereunder, said R. S. 2:53-15, et seq. is unconstitutional in that it was enacted in violation of Article I, Paragraph 1, of the Constitution of 1844 and Paragraph 16 of Article I of said Constitution, which said paragraphs are substantially identical with Paragraphs 1 and 20 of Article I of the Constitution of 1947 of this State, in that it violates the right of this defendant to acquire, possess and protect property and in that it takes this defendant's property for the public use of the State of New Jersey without compensation, and also in violation of the Fourteenth Amendment of the Constitution of the United States in that it deprives this defendant of its property without due process of law.

STRYKER, TAMS & HORNER

By JOSIAH STRYKER
A Member of the Firm
Attorneys for Defendant.

The plaintiff consents to the foregoing amendments.

EMERSON L. RICHARDS
Attorney for Plaintiff.

Reply to Amended Answer.

(Filed June 13, 1949.)

And now, this 9th day of June, 1949 the plaintiff, The State of New Jersey, with the consent of counsel for the defendant, Standard Oil Company, replies to the amended Answer heretofore filed in the above cause, as follows:

Second Defense.

VIII. Answering Paragraph VIII of the amended Answer, the plaintiff is advised that the Answer states a conclusion of law. The time when the causes of action in relation to the claims or chose-in-action, set forth in Schedule A, is to be determined from the Stipulation of Facts heretofore filed with this court.

IX. Answering amended Paragraph IX, the plaintiff denies that the right of action as to the claims and choses in action set forth in Paragraph IX has been barred by the Statute of Limitations and has neither become extinguished nor unenforceable against the defendant.

X. Answering amended Paragraph X, the plaintiff denies that at the time of the enactment of R. S. 2:53-15 to 2:53-32 had a vested right in the defense of the Statute of Limitations as to any of the claims set forth in Schedule A.

XI. Answering amended Paragraph XI, the plaintiff is advised that the paragraph sets forth a conclusion of law and plaintiff denies that the aforesaid Act is unconstitutional.

Reply to Amended Answer.

XII. Answering amended Paragraph XII, the plaintiff has no knowledge as to whether any of the contracts, which gave rise to the claims set forth in Schedule A or in the exhibits attached to the Stipulation of Facts, were made in New Jersey or elsewhere or was to be performed in New Jersey or elsewhere, or would be enforceable in New Jersey or elsewhere, and leaves the defendant to prove the alleged facts as it may be advised. The plaintiff does not know whether any of the persons listed in Schedule A were ever residents or domiciled in the State of New Jersey or not, and is advised that the said facts are irrelevant but that if such facts be relevant demands that the defendant be left to establish the said facts as it may be advised. The remaining averments in this paragraph are conclusions of law.

XIII. Plaintiff answering amended Paragraph XIII is advised that the averments therein are conclusions of law.

XIV. Plaintiff answering amended Paragraph XIV is advised that the averments therein are conclusions of law.

EMERSON L. RICHARDS,
Deputy Attorney General of the
State of New Jersey.

Conclusions on Final Hearing.

(Filed September 20, 1949.)

Mr. Emerson L. Richards, Special Deputy Attorney General, for the State,

Messrs. Stryker, Tams & Horner (Mr. Josiah Stryker and Mr. Valdemar Beeken, of counsel), for defendant.

Jayne, J. S. C.:

This action will be recalled as a proceeding instituted in pursuance of the terms of a legislative enactment entitled "An Act providing for the escheat of certain unclaimed personal property," and its amendments *(R. S. 2:53-15 to 2:53-32, N. J. S. A.)*, in which on March 3, 1949, I filed a preliminary memorandum concerning certain controversial points, the legal character of which I was requested to consider in abstract form. 64 A. 2d 386. To avoid redundancy of discussion and unnecessary reproduction of citations, the present memorandum is to be regarded as an augmentation of the antecedent opinion.

I heretofore resolved that the so-called Escheat Act is not manifestly unconstitutional on its face. I adhere to that determination. I again conclude as an abstract question that where a right of action has become barred under the provisions of our statutes of limitations, the statutory defense in its ordinary application is, in the existing law of the State of New Jersey as announced by our adjudications and in its relation to the persons implicated, a vested right extinguishing the debt or legal obligation. See citations in 64 A. 2d 386.

Notwithstanding the illumination produced by the stipulation of facts, the cardinal point of con-

troversy in the present proceeding continues to attach to the defensive averment that in consequence of the tolling of the statute of limitations the defendant under the authority of our adjudications has acquired a vested right and title to most of the alleged escheatable property.

I unhesitatingly acknowledge that the courts of many other states have conceived such statutes to be mere limitations of remedy and not efficacious either to destroy or to transpose fundamental rights. Nevertheless, it seems to me that the rejection, displacement or inversion of the principle enunciated in our State by Chief Justices Beasley and Gummere, favored by Justice Bradley of the United States Supreme Court and concurred in by former Justices Dixon, Van Syckel, Depue, Magie, Garrison, Swayze, Parker, Trenchard, Bergen, Minturn, and Kalisch, is a proposal more properly to be cogitated and resolved upon by our court of last resort.

It is the insistence of the defendant that:

> "All of the said claims and all choses in action with relation thereto accrued and arose against the defendant more than six years prior to the passage of the Escheat statute, and that any right of action thereon was barred by the Statute of Limitations before the enactment of the Escheat statute;
>
> "By virtue of the bar of the Statute of Limitations, the said claims and choses had become legally extinguished and legally unenforceable against the defendant;
>
> "At the time of the enactment of the Escheat statute, the defendant had a vested right in the defense of the Statute of Limitations as to all such claims;

Conclusions on Final Hearing.

"The legislature had no power to divest the said vested right to the defense of the Statute of Limitations, whether the legislature did so in the interest of the original claimants or in the interest of the State of New Jersey;

"If the Escheat statute is construed so as to provide for the escheat of such claims to the State of New Jersey, the said Act violates both the New Jersey Constitution and the Constitution of the United States, in that it violates the right of the defendant to acquire, possess and protect property and that it takes the property of the defendant for the public use of the State of New Jersey without compensation and that it deprives the defendant of its property without due process of law."

Obviously, if the principle which is presently regarded as establishing a vested right in the debtor with its consequent annihilation of the debt and in some instances its resultant transmission of title were to be abrogated, my present problem would materially evaporate.

At the argument I was fervidly invited to realize that to sustain the claim of the State against the defendant's invocation of the effectiveness of the statute of limitations would visit no prejudicial injury upon the defendant, whereas to confirm the defendant's contention upon that issue would in effect enable the defendant to aggrandize its private resources by bequests of unearned and undeserved assets.

I do not decline to envision the equitable aspects of the subject. In the composition of the Escheat Act of present interest the legislature expressly

conferred upon the former Court of Chancery exclusive jurisdiction over the contemplated proceedings, presumably with the intention that such proceedings would be governed by the principles and practices of a court of equity.

The jurisdiction of the former Court of Chancery has been transferred in its entirety to this court to be exercised primarily by its Chancery Division. *Steiner* v. *Stein*, 2 N. J. 367, 66 A. 2d 719.

True, the rule has been familiar to us that if the subject matter in controversy in a Court of Chancery is of an equitable nature, not cognizable in a court of law, statutes of limitations although not ignored have no obligatory application, but the court will instead apply the doctrine of laches according to its discretion, regulated by the peculiar circumstances and by the pertinent precedents.

Implicit in the terms and provisions of the Escheat Act is the persuasion of the legislature that the retention of abandoned and unclaimed personal property for an ultimate and eventual disposition to the beneficial owner has constituted a relationship in the nature of a trust, hence the investment of jurisdiction in equity.

True, also, equity jurisprudence is not bare of a remedy in the prevention of unjust enrichment. The constructive trust, although essentially a remedial concept, has supplied the formula through which in a variety of harsh and unfair situations the conscience of equity finds expression.

But here it may be answered that the enrichment which a debtor may derive from the operation of the statute of limitations is not inimical

to the public policy that recommends and sustains such statutes, and thus any resulting advantage therefrom to the debtor is not to be regarded as unjust or inequitable. Habitually in the consideration of strictly legal rights, courts of equity whether in voluntary obedience to or upon analogy recognize the limitations at law. For examples, if a legal title would, in ejectment, be barred by adverse possession of twenty years, courts of equity will respect the limitation. If a mortgagor has been in possession of the mortgaged premises for a like span of time without any acknowledgment of the debt, equity will presume that the mortgage indebtedness was paid. In the cases just hypothesized, can the State, despite the limitations, seize by escheat the lands subject to the consummated adverse possession or acquire and collect the mortgage for the reasons that the whereabouts of the record title holder of the land and in the latter case of the mortgagee has been unknown for a specified period of the past? Can the State now lawfully acquire by escheat every heretofore outlawed debt throughout its territorial jurisdiction and demand its payment free from the immunity bestowed upon the debtor by existing statutes and adjudications? Of course, it is not to be presumed that the State if it has such power will exercise it unwisely or arbitrarily.

My attention has been attracted to the section of our statute enacted in 1906 *(R. S. 2:24-24, N. J. S. A.)* relative to the amount of interest to be recovered on "any claim or demand which has been or shall become barred by the running of the statute of limitations, and *shall have been or shall be revived thereafter by legislative enactment*

* * *" (Italics mine.) The citation is not influential because whatever may have been the contemplations of the legislature, our Court of Errors and Appeals, for example, in *Ballantine & Sons* v. *Macken*, 94 N. J. Law 502, 503, 110 Atl. Rep. 910 declared: "The rule is institutional and fundamental that a party who has become released from a demand, by the operation of the statute, is protected against its revival by a change in the limitation law, the defence of the statute being considered a vested right, which cannot be taken away by legislation without violating the inhibition of the fourteenth amendment to the federal constitution." (Perhaps more accurately, the right to acquire and possess property clause.)

It must be immediately recognized that all of our decisions with concordant import have denied the legislature the opportunity constitutionally to revive as between private individuals the debt that has been extinguished by the applicable tolling of the statute of limitations. And so along most all of the passageways of thought concerning the effect of the limitation upon the rights of the private parties involved, we soon come upon the image of the vested right.

I frankly confess my inability to comprehend the power of the State to acquire by means of escheat vested rights of cognizable ownership as distinguished from abandoned rights and interests. The very spine of the doctrines of escheat and *bona vacantia* is composed of the constituent fact that no one exists who has ownership of the specified property.

It has been said that when you get half way into the woods, you then start coming out. And

so, diverging now to pursue an excursive view of the subject attention promptly focuses upon the proposition that although the defendant has acquired by statute a vested right and title to the intangible property to the exclusion of the unenforceable claims and demands of the former owners who have been and are now incapable of ascertainment and identification, yet the defendant has not in such circumstances also achieved a vested right and title to the property immune from recovery by the State in the pursuit of its governmental power. To sustain that conclusion it is necessary to resolve that the statute of limitations invoked by the defendant had no current application to the ever extant and subsisting sovereign prerogative of the State, and that the tolling of the statute although effectual as hereinbefore indicated between the debtor and creditor was always subject and subordinate to the governmental right.

In the preliminary memorandum I quoted from my opinion in *Trustees, &c., Public Schools* v. *Ott & Brewer Co.*, 135 N. J. Eq. 174, 37 A. 2d 832, the rule that a statute of limitation should not be construed to encircle the government unless it is manifest from the mischief to be reached, the express language employed or by necessary implication therefrom, that the government was in the contemplation of the legislature. I do not understand that the defendant impugns that rule or its utilization in the consideration of the present proceeding, but it projects the contention that the right of the State to recover the debt or chose in action is derivative and that where as between the debtor and creditor the debt or cause of action has become extinct, nothing remains due the creditor

to be captured by the State in pursuance of its undeniable power. But a perceivable refutation of that argument is a determination that the right of recovery by the State in a proceeding in the nature of escheat is distinguishable and independent of the rights of the individuals and that such isolated prerogative right did not become extinct. The contributing point is that the State acts initially as a conservator of the abandoned property, not as a party to a contract, and that the sovereign right cannot be demolished or suppressed by the acts of the individual debtors and creditors.

It is asserted that the power to escheat is prerogative in character and is inherent in the sovereignty of the people, and that it is not a creature of the legislatiure. The impression is that the Escheat Act merely authenticates and regulates the exercise of the power. The historical authorities indicate that the State had no common law proprietary interest in abandoned and unclaimed personal property. It is perhaps more accurate to identify the right of the State in such an undertaking as an exercise of the police power.

It is, however, in the course of this rationalization that the Deputy Attorney General places the possession of the alleged escheatable property in its relation to the prerogative right of the State in the equitable category of a quasi trust for the eventual surrender and delivery of the abandoned and unclaimed property to the public if and when proceedings to that end are authoritatively inaugurated by the State.

Conclusions on Final Hearing.

It seems entirely plausible to infer that the legislature never intended that statutes of limitations of the import and tenor here invoked should in any wise abate the pursuit by the State of its sovereign power to escheat unclaimed and abandoned property. The public policy sustaining such statutes in their application to dealings between individuals is familiar. The duration of the limitational period is definitely appurtenant to the object of the enactment. Envisioning the power to escheat tangible and intangible personal property, our legislators were undoubtedly conscious of the relatively lengthy span of time the lapse of which would reasonably generate a presumption of abandonment and failure of ownership. The interrelation of the limitational period and the statutory object has always been comprehended.

And so it is advocated by the Deputy Attorney General that the State possesses a supreme right (subject only to the characteristic impediments applicable to the exercise of the police power) to salvage for the public welfare all unclaimed and abandoned debts and cognate obligations which under the verification of proof or confession it is evident that the debtors and obligors have not in fact discharged.

In this and in my associated preliminary memorandum I have intentionally endeavored to exhibit all of the courses and processes of reasoning, *pro et contra,* to which my deliberations have been directed relative to the foremost controversial point. Perhaps I have inordinately magnified its debatable substance and too noticeably plowed the ground for ensuing cultivation in the appellate tribunals.

Where, however, the diversities of legal argumentation concerning the constitutionality of a statute and the exercise of a prerogative power in pursuance thereof approximate an equiponderance, it is in accord with recognized policy for the court to resolve the issue in favor of validity. I shall act accordingly in the determination of the aforesaid issue.

It is consequently unnecessary to discuss the application of the statute of limitations to the respective classes of intangible property here sought to be escheated.

I shall therefore proceed to consider the additional points presented for decision. I approach them with some precursory observations. The present action is essentially a proceeding *quasi in rem* in which the defendant company has filed an answer. No other claimant has sought to enter an appearance. Indeed, there is no proof of the existence of any other claimant. The admitted lack of knowledge of the whereabouts of any claimant during the specified period and the apparent abandonment of the designated property during a like span of time constitute under the Escheat Act a confirmatory presumption that there is no claimant.

If there is any such, he is privileged to proclaim his rights during the progress of this action and within two years succeeding the entry herein of the final judgment. The defendant protests that the right of the individual to make claim is reduced to a privilege dangling insecurely from the discretion of the court. In equity, remedies are nonetheless remedies because they are discretionary, and an abuse of discretion is not reasonably to be contemplated or condoned. A claimant has

no vested right in a particular remedy if a substantial remedy remains or is substituted. *Henderson* v. *Weber*, 131 N. J. Law 299, 301, 35 A. 2d 609, appeal dismissed, 332 U. S. 713, 88 L. ed. 1555, 64 S. Ct. 1270.

The defendant corporation has successfully argued before me that where the statute of limitations has tolled, the chose in action against it has been extinguished. What then is the property right of an unknown claimant in the present case (except the 12 shares of stock) that the defendant can with any propriety and practicability volunteer to protect against alleged unconstitutional invasion? I know not, unless the existence of the sovereign power to acquire abandoned and unclaimed property is controverted. The treatment and determination of the right of a claimant in respect to the escheat are subjects not now before this court.

The defendant is certainly free to defend its own rights. In my preliminary memorandum which is inhabited by most of the pertinent and authoritative citations, I have referred to such adjudications as *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 88 L. ed. 692, 64 S. Ct. 599, and *Security Bank* v. *California*, 263 U. S. 282, 68 L. ed. 301, 44 S. Ct. 108, which seem to me definitely to hold that if the prerogative power of the State is exercised under the authority of the legislature and in accordance with adequate and reasonable statutory terms and requirements, and it is judicially determined in pursuance thereof that the State is lawfully entitled to the property which in the given case is comprehended by the designated class of escheatable property, the surrender and delivery

of the property to the State discharges the obligation and liability of the defendant to the unknown claimants, and the legislation and the pursuit of its object are not in relation to the debtor and creditor violative of the contract and due process clauses of the constitution. To further allay the defendant's apprehensions of double liability, I point to *R. S. 2:53-23.1, N. J. S. A.; R. S. 2:53-31, N. J. S. A.; Philadelphia Electric Company* case, 352 Pa. 457, 43 A. 2d 116.

Counsel for the defendant perhaps approve of the literal text of the preceding paragraph, but they complain that our regulatory statute fails to require reasonable and adequate notice to the unknown and unascertained claimants in consequence of which the defendant would not be released from double liability. Anent that criticism I previously remarked: "Frankly, I regard the impoverished provisions pertaining to the notice to be given as an infirmity in the act, but not a mortal one." I again invite attention to the relevant comments contained in *Anderson National Bank* v. *Luckett, supra; Security Bank* v. *California, supra; Hyman* v. *Muller*, 1 N. J. 128, 62 A. 2d 221. I was not unaware of the decision in *Wuchter* v. *Pizzutti*, 276 U. S. 13, 72 L. ed. 446, 48 S. Ct. 259, 57 A. L. R. 1230, which seems to me to be irrelevant and inapplicable to the point here in question, for here it will be observed that the section of our Escheat Act *(R. S. 2:53-21, N. J. S. A.)*, properly construed, requires the notice in its essentials to be "approved by the court," and requires it to be published "in a manner directed by the court." Procedural enactments relating to statutory judicial proceedings not uncommonly direct that notice, its contents and amplitude,

shall be served or published as the court shall prescribe.

The Act affords a claimant a day in court. The enactment in itself is an announcement to persons having property within the State of the conditions under which the specified classes of property will be presumptively deemed abandoned and subject to transfer to the State. Statutory proceedings relating to the seizure of property rights by the State in the interest of the public welfare which by later resort to the courts secure to the parties affected a suitable opportunity to be heard, do not deny due process. *Anderson National Bank* v. *Luckett, supra.*

There remains for consideration the additional overture that the alleged intangible personal property does not have a situs in this State and therefore is not susceptive of seizure in this proceeding. For immediate interest the point must relevantly be reduced and confined to the consideration of the situs of abandoned intangible personal property of the particular character herein embraced in its relation to the power of this State to recover the property in circumstances evidenced by the stipulated facts.

It is acknowledged that the defendant attained its corporate origin and existence in this State and has continuously maintained its principal office in this jurisdiction at which its stockholders' meetings are regularly held and at which its registered agent may be found upon whom process is to be served in civil actions against company. New Jersey is the defendant's habitation or domicile.

It is the general jurisdictional rule that debts, choses in action, and kindred claims are determined to be situate where the debtor or other per-

son resides against whom the claim exists, that is, in the jurisdiction in which such choses and claims are properly enforceable and recoverable, regardless of the locations of the debtor's physical properties and of his major business activities. *Amparo Mining Co.* v. *Fidelity Trust Co.*, 75 N. J. Eq. 555, 558, 73 Atl. Rep. 249; *Pennington* v. *Fourth National Bank*, 243 U. S. 269, 61 L. ed. 713, 37 S. Ct. 282; *Philadelphia Electric Company* case, *supra*; 31 Harvard Law Review 905.

In an escheat proceeding such as this in which the residence, domicile, whereabouts and, indeed, existence of an owner of the *res* are unknown and the *res* is circumstantially presumed to be *bona vacantia*, the application of the general jurisdictional rule to the situs of an escheatable *res* within the class here described seems to be manifestly sensible, just, and pragmatical.

It is to be noticed that the opportunity afforded by our statute to obtain refunds from the State is available equally to non-resident and resident claimants.

Apparently the motive of the defendant in projecting this supplementary defensive argument is its imaginative apprehension that some other state may perchance some time in circumstances subsequently discovered undertake to escheat to itself the same property now to be awarded to New Jersey. The future, however wisely contemplated, remains a fairyland. The attempted solution of a preconceived legal problem of invisible characteristics is nothing more than a highly speculative and experimental exercise in which courts discreetly decline to indulge.

The United States Supreme Court in a like situation in its consideration of the New York Abandoned Property Law stated: "The problem of what another state than New York may do is not

before us. That question is not passed upon." *Connecticut Mutual L. Ins. Co.* v. *Moore*, 333 U. S. 541, 548, 92 L. ed. 641, 68 S. Ct. 682. In the same case Justice Frankfurter advocated the propriety of awaiting "the refining process of a defined contest," and until then to decline to "peck at the problem in an abstract, hypothetical way." I shall in this regard follow the footprints.

The judgment of this court will accordingly go in favor of the plaintiff.

Counsel are requested to compose and submit to me for approval a proposed final judgment declaratory of the conclusions herein expressed in their appropriate application to the circumstances of this case.

Final Judgment.

(Filed December 7, 1949.)

This cause came on to be heard on June 1, 1949, and was argued by counsel, and, upon consideration thereof,

It is, this 7th day of December, 1949,

Ordered, Adjudged and Decreed, that the following personal property be and is hereby escheated to the State of New Jersey, to wit:

a. Unpaid dividends declared upon the shares of capital stock of Standard Oil Company, aggregating $6,238.01, listed on the records of Standard Oil Company as set forth in "Exhibit 1" and "Exhibit 2" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

b. Twelve shares of the common stock of Standard Oil Company, having an aggregate par value of $300.00, listed upon the records of the company as set forth in "Exhibit 3" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

c. Unpaid wages of former employees of Standard Oil Company whose services to the company were rendered in the State of New Jersey, aggregating $31,381.08, listed upon the records of the company as set forth in "Schedule A" attached to the answer of Standard Oil Company filed in this cause, and incorporated in the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

d. Amounts withheld from wages of former employees of Standard Oil Company for the purchase of Liberty Bonds, aggregating $1210, listed upon the records of the company as set forth in "Exhibit 4" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

e. The amounts of unpresented commercial bank checks issued by Standard Oil Company, aggregating $8,561.62, listed upon the records of the company as set forth in "Exhibit 5" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause, and as set forth on page 27 of the said Stipulation of Facts;

f. Moneys withheld by Standard Oil Company on account of debenture coupons of its

Twenty Year 5% Debenture issue of 1926, aggregating $3125, listed upon the records of the company as set forth in "Schedule A", attached to the answer of Standard Oil Company filed in the within cause and incorporated in the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the defendant, Standard Oil Company, pay to the Treasurer of the State of New Jersey the aggregate amounts escheated as aforesaid and issue in the name of and deliver to the Treasurer of the State of New Jersey certificates for twelve (12) shares of its common stock in lieu of the certificates for said number of shares mentioned in "Exhibit 3" of the above mentioned Stipulation (which last mentioned certificates are not in the possession or under the control of the defendant), and that the Standard Oil Company make all necessary entries upon its books and records of the issuance in the name of and delivery to the Treasurer of the State of New Jersey of the aforementioned certificates, and of title to the said shares of stock in the Treasurer of the State of New Jersey.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the fees of Emerson L. Richards, Esq., the Counsellor who has prosecuted the escheat in this Court, be fixed in the amount of $6,500, and that his expenses be fixed at $100.35 according to Paragraph 23 of said Statute, and that the fees of Irving H. Kutcher, as Escheator, be fixed at $2,540.78, as provided in Paragraph 23 of said Statute, which fees and expenses are to be deducted from the moneys and personal property

received by the State Treasurer as provided in such Act, and by him paid to the aforesaid Counsellor and Escheator.

WILFRED H. JAYNE,
J. S. C.

Notice of Petition for Certification.

(Filed January 4, 1950.)

To:

EMERSON RICHARDS, Esq.,
Attorney for Plaintiffs, and
I. GRANT SCOTT, Clerk of the
Superior Court of New Jersey.

Notice is hereby given that the defendant, Standard Oil Company, will petition the Supreme Court of New Jersey for certification to the Superior Court of New Jersey, Chancery Division, to review the final judgment of said Superior Court of New Jersey, Chancery Division, entered in favor of the plaintiff in this action on December 7, 1949.

Dated: December 23, 1949.

STRYKER, TAMS & HORNER,

By JOSIAH STRYKER,
A Member of the Firm,
Attorneys for Defendant.

Service of a copy of the within notice is hereby acknowledged this 29 day of December, 1949.

EMERSON RICHARDS,
Attorney for Plaintiff.

Statement of Evidence and Proceedings.

(Filed January 30, 1950.)

Final hearing was held on June 1, 1949. There were introduced and received in evidence the following exhibits.

P-1—Copy of the By-Laws of the defendant revised as of December 23, 1948.

P-2—Copy of the certificate of incorporation of defendant certified as of July 12, 1948.

P-3—Photostatic copy of specimen of certificate, in ordinary form, of common stock of the defendant of the par value of $25, issued between December, 1920 and March, 1928.

P-4—Photostatic copy of specimen of certificate, in ordinary form, of preferred stock of the defendant of the par value of $100, issued in 1899.

D-1—Enlarged photostat of specimens of certain coupons originally attached to debentures of the defendant, but thereafter detached from such debentures and never presented for payment.

D-2—Photostatic copy of specimen of debentures of defendant, in ordinary form and under seal, to which the unpresented coupons were originally attached.

No testimony was taken, but in lieu thereof the original and a copy of a written Stipulation of Facts were filed with the Court and marked D-3. It was orally stipulated that none of the unpresented debenture coupons referred to in the written stipulation were under seal.

The defendant's attorneys, by Josiah Stryker, Esq., announced that amendments to the answer would be served and filed within a few days.

Statement of Evidence and Proceedings.

Thereafter, oral arguments by both parties were heard by the court.

EMERSON RICHARDS,
Attorney for Plaintiff.

STRYKER, TAMS & HORNER,

By JOSIAH STRYKER,
A Member of the Firm,
Attorneys for Defendant.

Approved January 20, 1950.

WILFRED H. JAYNE,
J. S. C.

Transcript of Final Hearing June 1, 1949.

(Filed February 1, 1950.)

APPEARANCES NOTED.

Mr. Richards: As a result of a number of conferences between counsel and an examination in New York of the principal officers of the company, it has been possible to arrive at a series of stipulations of fact upon all points that the State considers essential to the proof of its claim to the escheat of the property set out in the stipulation. There are one or two last minute stipulations which we would like to read into the record or which can be conveniently read into the record if Mr. Stryker wishes to add to the answer filed in this case so that it will be unnecessary to call any witnesses. As I was going to say, I believe Mr. Stryker wishes to add to the answer filed in this case two additional defenses which have been added in other cases but which I don't think are very material and I have no objection to them. If they have any force at all, I doubt they have, at any rate. So that with these stipulations and with perhaps an introduction of the charter or a copy of it and the by-laws of the corporation, and a sample of one of the stock certificates itself, we are ready to rest so far as the facts are concerned.

Mr. Stryker: The additional stipulations, one of which was at the request of Senator Richards and the other at my request, I will state now. The first one, at the request of Senator Richards, is as follows:

> "In the year 1927 the defendant transferred its operating business to subsidiaries and, since then, it has functioned as a holding company, transacting its business at its prin-

cipal office in the City of New York. The only business which it conducts in the State of New Jersey is the holding of its annual stockholders' meeting in said State."

The other stipulation is as follows:

"It is stipulated and agreed by and between the parties hereto that none of the contracts of employment out of which the claims for unpaid wages shown in Schedule A attached to the answer arose were in writing."

We also wish to offer in evidence a photostat of the debenture for which there are some unpaid coupons and we have accompanied that photostat of the debenture with a photostat of five of the coupons in much larger size so that they can be read. The coupons attached to the debenture are of such fine print that they can scarcely be referred to. These can readily be read and I offer them now in evidence.

(Marked Exhibits D-1 and D-2 respectively.)

Since the answer the investigation of the Standard Oil Company has disclosed some errors in the answer. Those errors consist of specifying one or two very small claims which, on further examination and investigation, are not subject to the act and it also includes the addition of a number of claims which, at the time the answer was filed, were not discovered. We have annexed all of these in detail to the stipulation. I assume that, as to the claims which have later been discovered, it will be necessary to publish an additional notice, but I don't suppose that will interfere with a discussion of the questions now involved. If

anyone should respond to the additional notice, I suppose it would be necessary to have it considered, but I think we can proceed today. I offer the stipulation.

(Stipulation marked D-3.)

The amendments which we wish to make are these. I can read the additional defenses if the court desires, but it seems to me, if we could submit them in the form of an amendment, it would be simpler. They are two additional defenses which appear in the answer filed in this court in the case of State *v.* National Biscuit Company. I will be glad to read them, but I believe it would be well to designate them in that way.

The Court: I don't think you need it.

Mr. Stryker: The fourth defense raises the question of the inadequacy of the notice prescribed by the statute. We claim that that makes the proceeding of such a character as not to adequately protect the defendant against later claims. The fifth defense raises the question of depriving the claimant of any right to assert his claim. Under the act, within two years the claimant may apply to have the decree opened. It is not a matter of right but it is in the discretion of the Chancellor. This is not a question of right, but I think the larger part of our discussion will be directed to other defenses.

The Court: You are going to send the amendment here and file it.

Mr. Stryker: Yes, we propose to send the amendment and file a copy and have a copy for the court.

Mr. Richards: I offer the by-laws and the charter of the company.

(Marked P-1 and P-2 respectively.)

Transcript of Final Hearing June 1, 1949.

Mr. Richards: I offer in evidence photostatic copies of the stock certificate, samples.

(Marked P-3 and P-4 respectively.)

Note:

The above transcript was not filed until February 1, because the stenographer's very brief notes had been mislaid and were not found until a few days prior to that date.

[fol. 243] In Supreme Court of New Jersey, September Term, 1949

No. A-134

State of New Jersey, by Theodore D. Parsons, Attorney-General, Plaintiff-Respondent,

vs.

Standard Oil Company, Defendant-Appellant

Argued May 8, 1950; Decided June 27, 1950

On Appeal from the Superior Court, Chancery Division, Whose Opinions Are Reported in 2 N. J. Super. 442 and 5 N. J. Super. 460, Certified on Defendant's Motion

Mr. Josiah H. Stryker argued the cause for appellant. Messrs. Stryker, Tams & Horner, Attorneys.

Mr. Emerson Richards argued the cause for the State. Mr. Theodore D. Parsons, Attorney General, on the brief.

Opinion

The opinion of the court was delivered by Heher, J.

The primary question here is the constitutional sufficiency of ch. 155 of the Session Laws of 1946, as amended by ch. 357 of the Session Laws of 1947 (N. J. S. A. 2:53-15, *et seq.*), providing for the escheat in certain circumstances of "moneys, negotiable instruments, choses in action, interest, [fol. 244] debts or demands due to the escheated estate, stocks, bonds, deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property and the accretions thereon," but excluding "real property or property" in *custodia legis* and "unclaimed bank deposits" made subject to escheat by ch. 199 of the Session Laws of 1945, N. J. S. A. 17:9-18, *et seq.*

The statute escheats to the State such personal property "within this State" of one who has died, or shall die, intestate, "without heirs or known kindred, capable of inheriting the same, and without leaving a surviving spouse"; the personal property "within this State" of an "owner, beneficial owner, or person entitled" thereto who "has been

or shall be and remain unknown for the period of fourteen successive years," or whose "whereabouts * * * has been or shall be and remain unknown for the period of fourteen successive years"; and personal property "wherever situate" which "has been or shall be and remain unclaimed for the period of fourteen successive years".

Jurisdiction to enter a judgment of escheat, originally granted to the old Court of Chancery, is now vested in the Chancery Division of the Superior Court. It is invoked by a petition setting forth the jurisdictional requisites. The court is enjoined to "make an order requiring the defendant to answer the petition within a time therein limited." And there is provision for "such other directions" as the court may deem appropriate "for the speedy determination of the cause, the protection of the property, or for the disclosure of information pertinent to the prosecution of the cause." Provision is also made for service of a copy of the petition and order "upon the defendant in the man-[fol. 245] ner provided in the said order;" and the defendant is directed, within the time limited, to answer the petition and comply with the order. Upon the filing of the defendant's answer, and his compliance with the order, it is incumbent upon the court, by a further order, to designate a time and place for the hearing of the petition. A "notice" summarizing "the order designating the time and place of hearing, as approved by the court," shall then "be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court," provided that where the value of the personal property "of any one owner is less than $50, publication may be dispensed with if the court so directs." The notice shall direct that "any person who may claim to be entitled" to the property, or any interest therein, shall file his claim in the general form of an answer at least five days prior to the date fixed for the hearing. If no "answering pleadings" be filed within the time prescribed "by order of the court," the court may proceed upon the petition alone, and enter judgment declaring that the property "has escheated to the State." Upon the entry of a judgment of escheat, the person "in possession" shall deliver the property to the State Treasurer; and the Treasurer is enjoined to con-

vert the property into money after "public notice" and deposit the proceeds in the State Treasury.

The judgment of escheat, by express provision, operated "as a full, absolute and unconditional release and discharge of the person having such property in possession or custody from any and all claim, demand, or liability to any person whatever other than the State Treasurer with respect to such property," and is pleadable "as an absolute bar to any action brought against such person. with respect to [fol. 246] such property by any person other than the State Treasurer."

Any person "whose property may have escheated to the State as provided" in the Act, "or any rightful heir entitled to such property by descent, may, within two years after" the entry of the judgment of escheat, apply for a reopening of the judgment, and "upon proof that" he was "without actual knowledge" of the escheat proceedings and "proof of ownership of such property or the right to possession thereof, the court may in its discretion reopen" the judgment: and "in the event" that the judgment "in part or in whole be revised or amended, the court may direct the State Treasurer to repay such part of the moneys received by the State Treasurer by reason" of the judgment "to the party or parties in the amended" judgment "entitled to have the same, and upon the entry of such" judgment "the State Treasurer shall repay the said moneys as provided" in the judgment, less the "expenses and charges that may have accrued or been paid out by reason of the entry of the original" judgment.

The judgment under review escheated to the State the following classes of personal property found to be in the possession of the defendant corporation:

(a) Unpaid dividends declared upon shares of its capital stock, aggregating $6,238.01;

(b) Twelve shares of its common capital stock, of the aggregate par value of $300;

(c) Unpaid wages of former employees of the corporation whose services were rendered in New Jersey, aggregating $31,381.08;

[fol. 247] (d) Moneys withheld from wages of former employees of the corporation for the purchase of Liberty Bonds, aggregating $1,210;

(e) The amounts of unpresented commercial bank checks issued by the corporation, aggregating $8,561.62; and

(f) Moneys withheld by the corporation on account of coupons of its Twenty-Year 5% Debenture issue of 1926, aggregating $3,125.

The Standard Oil Company is a domestic corporation. It was organized in 1882 under the laws of New Jersey; and it subsists under that franchise grant. It maintains its registered office in Flemington, New Jersey. It is stipulated that the stated items of property have remained unclaimed for more than fourteen successive years prior to the institution of this proceeding, and still remain unclaimed, and that the whereabouts of the owners or persons entitled to the property have remained unknown for a period of fourteen successive years prior to the commencement of this proceeding, and still remain unknown.

The Superior Court concluded that "Implict in the terms and provisions of the Escheat Act is the persuasion of the legislature that the retention of abandoned and unclaimed personal property for an ultimate and eventual disposition to the beneficial owner has constituted a relationship in the nature of a trust, hence the investment of jurisdiction in equity;" that while as between the debtor and creditor the debt or cause of action "has become extinct" by the lapse of time prescribed by the statute of limitations, "the right of recovery by the State in a proceeding in the nature of escheat is distinguishable and independent of the rights of the individuals and that such isolated prerogative right did [fol. 248] not become extinct;" that the State "acts initially as a conservator of the abandoned property, not as a party to a contract, and that the sovereign right cannot be demolished or suppressed by the acts of the individual debtors and creditors;" that it was not the design of the statute of limitations "to abate the pursuit by the State of its sovereign power to escheat unclaimed and abandoned property;" and that where "the diversities of legal argumentation concerning the constitutionality of a statute and the exercise of a prerogative power in pursuance thereof approximate an equiponderance, it is in accord with recognized policy for the court to resolve the issue in favor of validity," and it is therefore "unnecessary to discuss the

application of the statute of limitations to the respective classes of intangible property here sought to be escheated."

I

It is the insistence of the defendant corporation that there was error in construing the Escheat Act as applicable to choses in action barred by the statute of limitations "at the time the right of the State accrued;" and that this construction and application contravenes paragraphs 1 and 16 of Article I of the Constitution of 1844, now paragraphs 1 and 20, respectively, of Article I of the Constitution of 1947.

The argument, in brief, is that the property subject to escheat under R. S. 2:53-17, considered in relation to the definitive terms of R. S. 2:53-15, "is property to which some person is entitled and which is in the possession or custody of some other person who is to be the defendant in the escheat proceeding;" that in the case of debts, "it is the claim [fol. 249] or chose in action which is escheated, not the property of the debtor out of which the chose in action, if enforced, would be satisfied;" that if the unclaimed property is a debt, the State "takes the claim which the owner has * * *, subject to all defenses which the debtor is entitled to assert against the owner who has failed to claim the debt;" and that the defendant has a vested right to interpose the defense of the bar of the statute of limitations which the Legislature is not free to destroy.

It is not to be supposed that the Legislature intended to revive all outlawed debts and demands for appropriation by the State, no matter when the obligation came into being and however long the right of enforcement ceased to exist. The inclusion of "debts or demands due to the escheated estate" in the definition of the "personal property" liable to escheat, embodied in R. S. 2-53-15, is significant of a purpose to reach only choses in action whose obligation had not been extinguished, whether by satisfaction or by the bar of the statute of limitations.

There is a contrariety of view as to whether it is within the legislative competency to restore the means of enforcement of a chose in action rendered unenforceable by the efflux of time fixed by the statute of limitations. It is the settled rule in the Federal jurisdiction that state exertion of such power is not violative of the Fourteenth Amend-

ment, where the lapse of time has not operated to vest title to real or personal property. *Campbell* v. *Holt*, 115 U. S. 486, 6 S. Ct. 209, 29 L. Ed. 483 (1885); *Chase Securities Corporation* v. *Donaldson*, 325 U. S. 304, 65 S. Ct. 1137, 89 L. Ed. 1628 (1945). The view of the majority in the case of *Campbell* v. *Holt* was that, while one may acquire a superior and paramount title or ownership to tangible property, [fol. 250] real or personal, by long and undisturbed possession which is proof against legislative impairment by the removal of the bar of the statute of limitations, debts are on a different footing, chiefly because the statute operates in such cases merely to bar the remedy without destroying the right in *foro conscientiae*. "Time does not pay the debt" it was said, "but time may vest the right of property. • • • The statute of limitations does not destroy nor pay the debt." But this distinction between a vested right of ownership to real and tangible personal property arising out of the statute of limitations and the operation of the statute as a defense to contracts has had no recognition in this State. The principle is embedded in our jurisprudence that where a right of action has become barred under existing law, the statutory defense constitutes a vested right which is proof against legislative impairment. The protection is the same whether the debtor has satisfied the demand or has become released from the obligation by the operation of the statute of limitations.

The principle was expounded in *Ryder* v. *Wilson's Executors*, 41 N. J. L. 9 (S. Ct. 1879). There, Chief Beasley said: "The decisions of the courts, so far as my research has extended, are wholly in accord on this subject, and, with one voice, they declare that when a right of action has become barred under existing laws, the right to rely upon the statutory defense is a vested right, that cannot be rescinded or disturbed by subsequent legislation. Judge Cooley, treating of this subject, in his work on Constitutional Limitations, thus states his views: 'As to the circumstances under which a man may be said to have a vested right to a defence, it is somewhat difficult to lay down a comprehensive rule. He who has satisfied a demand, cannot have it revived [fol. 251] against him; and he who has become released from a demand by the operation of the statute of limitations, is equally protected. In both cases, the right is gone, and to restore it, would be to create a new contract for the

parties—a thing quite beyond the power of legislation.' Const. Lim. 369. And how completely the doctrine thus declared is a legitimate deduction from the authorities, will very plainly appear by a reference to the numerous cases collected by this same author, in his note on page 368." This doctrine was accepted by the old Court of Errors and Appeals in *Moore* v. *State*, 43 N. J. L. 203 (E. & A. 1881). Mr. Justice Dixon cited with approval cases holding that "laws never deliberately take away all remedy without an intention to destroy the right." It was deemed to be the settled rule that when a right of action is barred by a statute of limitaitons, it cannot be revived by act of the Legislature. Mr. Justice Van Syckel, in his dissenting opinion (*Ibid.* 248), said: "A right of action is a property right which may be sold and assigned. Therefore, after the bar has attached, an act of legislation which revives the right to sue, is an act to vest property in one at the expense of another." The principle was reiterated by the Court of Errors and Appeals in *Plahn* v. *Givernaud*, 85 N. J. E. 143 (E. & A. 1915), and in *Ballantine & Sons* v. *Macken*, 94 N. J. Eq. 502 (E. & A. 1920), and by this court in *Shade* v. *Colgate*, 3 N. J. 91 (1949).

We conceive the New Jersey rule to be grounded in sound reason and principle. The statute of limitations is one of repose. As said by Mr. Justice Jackson in *Chase Securities Corporation* v. *Donaldson, supra*, such statutes "are practical and pragmatic devices to spare the courts from litigation of stale claims, and the citizen from being [fol 252] put to his defense after memories have faded, witnesses have died or disappeared, and evidence has been lost." While it has been the generally accepted rule that a statute of this class operates on the remedy merely and does not extinguish the right, it would seem that the destruction of the remedy reduces the "right" to a mere moral obligation sufficient only in the law to sustain a new promise without an independent consideration. Our rule perceives no essential difference between the vesting of rights to real and tangible personal property under a statute of this class and its operation as a defense to contracts. The abrogation of the remedy is equally a violation of the right, for a right without a remedy is a mere shadow. The difficulty was recognized in the *Chase Securities Corporation* case. It was found unnecessary to resolve the controversy as to the true

rule. Such statutes were considered representative of "a public policy about the privilege to litigate" whose shelter do not constitute "a 'fundamental' right or what used to be called a 'natural' right of the individual," but whose pleas are "good only by legislative grace" and are "subject to a relatively large degree of legislative control," and are therefore not within the operation of the Fourteenth Amendment, which "does not make an act of state legislation void merely because it has some retrospective operation." The essence of the holding was that "it cannot be said that lifting the bar of a statute of limitations so as to restore a remedy lost through mere lapse of time is *per se* an offence against the Fourteenth Amendment."

Under our law, the right to interpose the bar of the statute of limitations to actions in contract of this class is a vested property right which the law-making body may not abrogate or impair. It is fundamental that the denial of the [fol. 253] remedy affects the substance of the right in the constitutional sense, *Henderson* v. *Weber*, 131 N. J. L. 299 (E. & A. 1944), appeal dismissed 332 U. S. 713, 64 S. Ct. 1270, 88 L. Ed. 1555 (1944). When the remedy is taken away, the right ceases to exist.

This conception of the bar of the statute of limitations as a vested right of defense beyond legislative impairment was not abrogated or modified by the Constitution of 1947. The pertinent provisions of the Constitution of 1844 were reenacted without substantial change; and it is to be presumed that their retention constituted the adoption of the quality and meaning accorded to them by the long-settled judicial construction. *State* v. *DeLorenzo*, 81 N. J. L. 613 (E. & A. 1911); *Commonwealth* v. *Reeder*, 171 Pa. 505, 33 Atl. 67 (1895). Compare *Cook* v. *Bennett Gravel Co.*, 90 N. J. L. 9 (S. Ct. 1917); *Ross* v. *Miller*, 115 N. J. L. 61 (S. Ct. 1935); *State* v. *Moresh*, 122 N. J. L. 77 (E. & A. 1939).

There is no substance to the contention that under the Constitution of 1947, the escheat act "limits the operation" of the statute of limitations, "even to the point of divesting" an accrued right of defense under its provisions. The argument is that these statutes, "having lost all force and vitality upon the abrogation of the Constitution of 1844" by the adoption of the Constitution of 1947, "again came into full force and effect simultaneously by virtue of their wholesale reenactment of Paragraph 3 of the new Con-

stitution," and so they must be "read together and reconciled," and therefore the escheat act is not "subject in any manner to the statute of limitations." But the mere continuance of these statutes by constitutional fiat is not indicative of a purpose to abrogate vested rights to defenses permissible under the statute of limitations. There is no suggestion of a legislative design by the original enactment, [fol. 254] to annul the bar of the statute of limitations and revive in favor of the State a debt or demand that *inter partes* had lost its vitality by the operation of that statute. The Constitution of 1947 does not give the statute a radically different quality and meaning.

In modern usage "escheat" signifies the falling of property to the sovereign for want of an owner; and this category embraces not only property which has no other owner, but also property whose owner or whose owner's whereabouts is unknown. Under the common law of England escheats came to be classified as "another branch of the king's ordinary revenue." Blackstone's Comm. 302. What was originally an incident of tenure is now an incident of sovereignty. *Matthews* v. *Ward*, 10 Gill. & J. (Md.) 443, 451: *In re Melrose Avenue*, 234 N. Y. 48, 136 N. E. 235 (1922). The doctrine of escheat, at the early common law operative only upon that which was the subject of tenure, since it related to the reversionary right of the lord to take for want of a tenant, was eventually extended to include personal property, tangible and intangible. The principle was that the right to take that which belonged to no one appertained to the Crown, as *jure regalia*. *Dyke* v. *Walford*, 5 Moo. P. C. 434, 13 Eng. Rep. Full Reprint 557. The Crown steps in to take the property because it is vacant. Property described as *bona vacantia* is taken or assumed by the State, as its own. Property of this class falls "to the Crown as a matter of right in the exercise of its sovereign power." Re Barnett's Trusts (1902), 1 Ch. (Eng.) 847, 3 B. R. C. 198. "In personal estates, which are allodial by law, the King is last heir where no kin." Lord Mansfield in *Burgess* v. *Wheate*, 1 W. Bl. 123, 96 Eng. Rep. Full Reprint 67, 10 Eng. Rul. Cas. 614 (1884). Property escheats to the State as part of the common ownership. *Hamilton* v. [fol. 255], *Brown*, 161 U. S. 256, 16 S. Ct. 585, 40 L. Ed. 691 (1896); *Sands* v. *Lynham*, 27 Grat. (Va.) (1876), 291, 295. "With tenure abolished, succession is by like right whether

the subject of escheat is personal or real." *In re Melrose Avenue, supra.* The policy of the State's superior right under the doctrine of *bona vacantia* was described by Blackstone as the avoidance of "that strife and contention, which the mere title of occupancy is apt to create and continue, and to provide for the support of public authority in a manner the least burthensome to individuals." Blackstone's Comm. 298. The State has the same dominion over intangible property that it has over tangible property. *Security Savings Bank* v. *California,* 263 U. S. 282, 44 S. Ct. 108, 68 L. Ed. 301 (1923); *Anderson National Bank* v. *Luckett,* 321 U. S. 233, 64 S. Ct. 599, 88 L. Ed. 692 (1944); *Connecticut Mutual Life Insurance Co.* v. *Moore,* 333 U. S. 541, 68 S. Ct. 682, 92 L. Ed. 863 (1947); *Roth* v. *Delano,* — U. S. —, S. Ct. —, 94 L. Ed. —, (1949).

It is a corollary of the foregoing principles that where all remedy upon the intangibles has been barred by the statute of limitations, there is no property to escheat under the act now before us. The State's right is purely derivative; it takes only the interest of the unknown or absentee owner. If the remedy has been extinguished by the statute of limitations, the State is under like incapacity. The State takes only the creditor's right; it cannot create or revive an obligation that had no existence or had become extinct. *The King* v. *Morrall,* 6 Price 24, 146 Eng. Rep. Full Reprint, 730 (Exchequer 1818). The principle was applied in *Lambert* v. *Taylor,* 4 B. C. 138, 107 Eng. Rep. Full Reprint, 1010 (K. B. 1825). Here, defendant invokes the bar of the statute of limitations; and where that defense is sufficient in law, there is no property subject to escheat.

[fol. 256] The subject matter of categories (c), (e), and (f) do not constitute property subject to escheat.

II

Our next inquiry is as to whether the unpaid dividends declared on the common capital stock of the defendant corporation constitute rights of property which have not been rendered unenforceable by the operation of the statute of limitations.

The contention is that when a declared dividend becomes payable the relation of debtor and creditor comes into being, and the "debt" is recoverable "in *assumpsit* which is an action in the nature of an action on the case," a remedy

barred under R. S. 2:24-1 after the lapse of six years from the accrual of the cause of action.

Prior to 1918 the total amount of the declared dividends was deposited by the corporation in the National City Bank of New York, in a dividend disbursing account in the name of the corporation. Individual checks for the dividends were drawn by the corporation against this account to the order of the stockholders, and mailed to the stockholders, at the addresses shown on the records of the company, before the date fixed for the payment of the dividend. The unpaid dividends in this category aggregate but $85.50. The deposit thus made with the National City Bank was charged on defendant's books to the account of "Dividends Paid," to "record the reduction in surplus effected by the dividend, and credited to 'Accounts Payable.'" Eventually, the aggregate of the amounts in the "Dividends Paid" account found its way into the surplus account. The sum of the uncashed dividend checks was eventually deposited in a general bank account of the defendant by a check drawn [fol. 257] by the Treasurer's Department. By appropriate bookkeeping entries, the unclaimed dividends were classified as income. These unclaimed dividends "were closed out in 1908 and 1938 by a transfer to 'Earnings'."

The corporation honored all claims for dividends declared prior to 1918 "made more than 6 years after such dividends became payable," in one instance as late as 1948, "as a matter of Company policy for the purpose of maintaining amicable relations with stockholders without any consideration of the question whether or not the claims therefor were barred by the statute of limitations."

In 1918, the Guaranty Trust Company of New York was appointed transfer agent of the defendant corporation, and thereafter declared dividends were paid by the check of the Trust Company drawn upon funds deposited by defendant for that purpose. These deposits were "mingled with the general funds of the Trust Company in the same manner as any general commercial deposit would be, and always remained so mingled." Again, the amounts deposited were charged by the corporation on its general ledger to the account of "Dividends Paid" and credited to "Accounts Payable." The deposits were ultimately "recorded in the surplus accounts." The defendant "has not recalled from the Trust Company the amounts of dividend

checks which have remained unpaid." The undelivered checks amount to $1,711.13, and the checks presumably delivered but not presented for payment aggregate $4,445.65, or a total of $6,156.78. The Trust Company also honored demands for dividends made more than six years after the date fixed for payment, "as a matter of Company policy" for the maintenance of "amicable relations with stockholders," without regard to the Statute of Limitations.

[fol. 258] The defendant corporation cites *King* v. *Paterson and Hudson R. R. Co.*, 29 N. J. L. 82 (S. Ct. 1860), affirmed *Ibid.* 504 (E. & A., 1861) and *Jackson's Administrators* v. *Newark Plankroad Co.*, 31 N. J. L. 277 (S. Ct. 1865) for the proposition that the relation between a corporation and its stockholders in respect of a dividend declared and payable is that of debtor and creditor; that an action in *assumpsit* will lie for the recovery of the dividend, and the action of *assumpsit* is an action on the case directly within the limitation provisions of R. S. 2:24-1.

In the *King* case the holding of the old Court of Errors and Appeals was that after a dividend is declared, "all community of interest" in relation to the dividend ceases, and the stockholder has "a separate and independent right" to the dividend, enforceable by an action at law against the corporation after demand of payment. But Chancellor Green likened such dividends to bank deposits; and he classified them as trusts "in a limited sense." He regarded the corporation "as a trustee of the dividend unpaid to the stockholder," even though another was entrusted with the fund for the purpose of payment. He cited the *English* case of *Le Roy* v. *The Globe Insurance Co.*, 2 Edw. Ch. R. 657 (1936). There, it was held that payment of dividends withheld by a solvent corporation may be enforced at the instance of the stockholders by *mandamus*, by action at law on behalf of the individual stockholders for the payment of the money, or by bill in equity to obtain possession of the money upon the footing of its being a trust fund. The Vice Chancellor declared that where there had been an "express appropriation and setting apart" from the company's earnings of the moneys for the payment of the declared dividends, thereby distinguishing the money from "the general mass of the company's funds," there was [fol. 259] conferred upon the amount thus separated "the

character of a trust fund which could not afterwards be diverted to other objects." He continued: "It makes no difference, in my judgment, that the money was not told out and specifically set apart in the bank to meet these checks or that a separate fund was not created for the purpose or that the money intended to meet them still formed a part of the general mass standing to the credit of the company on the books of the bank: for this court can, nevertheless, lay hold of the mass and separate so much as may be necessary to accomplish what was intended and which accident alone prevented at the time." This on the hypothesis that the matter was "no longer executory in the view of the parties;" and it was the function of equity to perform it so far as it remained unexecuted. For the fulfillment of the intention, he said, a court of equity will consider the moneys thus set apart "as a trust fund to which the stockholders had acquired vested rights—not in their corporate capacity, but as individuals to whom the money legally and equitably belonged distinct from their other interests in the funds and effects of the company." The case of *Jackson's Administrators* v. *Newark Plankroad Co.* merely held that an action in *assumpsit* would lie against an incorporated company for breach of the contract which the law implied from the relationship of the parties that an equal distribution of dividends will be made among the stockholders. There is authority for the proposition, *e.g.*, *Kane* v. *Bloodgood*, 7 Johns. C. R. 90, cited by Chancellor Green in the *King* case, that an action at law for money had and received would lie by a stockholder against a corporation for the recovery of a dividend, and that it was not such an express trust as would take the case out of the Statute of Limitations.

[fol. 260] The trust fund theory is a more realistic concept of the substance of the transaction here and the relationship between the parties than that of a mere debt within the operation of the statute of limitations. There was a segregation from the Company's funds of the moneys to be devoted to the payment of the dividends. The mere declaration of a dividend by a corporation gives rise to a debt as against it in favor of the individual stockholders; but where "the fund for its payment has been actually set apart and distinguished from the general mass of the company's funds the fund so set apart becomes a trust fund for the payment of the dividend, which cannot be reached by the general creditors of the corporation, and

when it becomes a trust fund for the payment of dividends it cannot be diverted and used for any other purpose. * * * There seems to be a fundamental distinction between a fund set apart for the payment of a dividend and a fund set apart for the payment of an ordinary indebtness." *Re Interborough Consolidated Corporation,* 288 Fed. 334 (1923), 32 A. L. R. 932; certiorari denied, *Porges* v. *Sheffield,* 262 U. S. 752, 43 S. Ct. 700, 67 L. Ed. 1215 (1923). Judge Rogers invoked the principle of the English case of *Le Roy* v. *The Globe Insurance Co.,* cited *supra,* among others. He also adverted to the doctrine that where money is placed by one person in the hands of another for payment to a third person, a trust arises in favor of the latter for which the recipient may be held accountable either at law for money had and received, or in equity as a trustee, for a breach of trust. Reference was also had to the principle that where a charge or claim in the nature of a lien is placed upon property by the owner, a court of equity will establish and enforce it, "not only against the party who stipulated to [fol. 261] give it, but also against third persons who are either volunteers or take with notice."

For the rule that segregation of funds to meet a declared dividend constitutes the corporation a trustee for the stockholders, see also *Jermain* v. *Lake Shore & Michigan So. Ry.,* 91 N. Y. 483; *Hopper* v. *Sage,* 112 N. Y. 534, 20 N. E. 350 (1889); *In re Sutherland,* 23 Fed. (2d) 595 (1928); *People* v. *The Bank of Dansville,* 39 Hun 187 (1886); *Lowne* v. *American Fire Insurance Co.,* 6 Paige 482 (1837); *Roehm* v. *Stetson,* 50 D. & C. (Pa.) 98, 104 (1943). Where there has been "an actual setting apart * * * of a part of the surplus funds" for the payment of a dividend, the dividend "became the property of the stockholders distributively." *Smith* v. *Cotting,* 231 Mass. 42, 120 N. E. 177 (1918).

The principle is rooted in our jurisprudence. In *Breslin* v. *Fries-Breslin Co.,* 70 N. J. L. 274, 287 (E. & A. 1904), the old Court of Errors and Appeals ruled that after segregation of the moneys to be devoted to the payment of a dividend, "the corporation, as such, has no property interest in the moneys thus set apart;" the directors "are trustees for the several stockholders, charged with the duty of properly apportioning among them the moneys thus set apart for their use." The trust relationship inheres in the corporate association. Mr. Justice Pitney there cited with approval

this statement of the general rule: "The ideal body is, in theory of law, the principal and the board of directors are the managing agents; but, in theory of equity, the body of stockholders are the beneficiaries in a trust and the directors are their trustees."

The liability of the corporation to its stockholders in such circumstances has been likened to that of a bank to its depositors. *Armant* v. *New Orleans & C. R. Co.*, 41 La. [fol. 262] Ann. 1020, 7 So. 35 (1889); *Larwell* v. *Burk*, 19 Ohio Cir. Ct. 513; *Yeaman* v. *Galveston City Co.*, 106 Tex. 389, 167 S. W. 710 (1914).

It results that the limitations of R. S. 2:24-1 are not operative to extinguish the stockholders' right to the dividends in question.

And the moneys withheld from the wages of employees for the Purchase of Liberty Bonds, Class (d), are in the same category.

III

It is urged that, for certain reasons presently to be stated, the judgment herein does not serve to absolve the defendant corporation from liability for the payment of claims not barred by the statute of limitations, because (a) the statute under review deprives "the claimants whose claims" are not within the Statute of Limitations of their remedy for the enforcement of their contracts and provides no adequate substitute remedy, and (b) the notice of the escheat proceeding prescribed by the statute is entirely inadequate, all in violation of the contract clauses of Article I, Section X of the Federal Constitution and Article IV, Section VII, paragraph 3 of the State Constitution of 1844, now embedded in the same article, section and paragraph of the Constitution of 1947, and the due process clauses of the Fourteenth Amendment of the Federal Constitution and Article I of the Constitution of 1844, carried into Article I, Section I of the Constitution of 1947.

As to (a), it is said that the "only substitute" remedy for the enforcement of the shareholders' contract "is the opportunity to appear, if per chance they have notice of the proceeding, and assert their claim in the escheat proceeding," and to invoke what is deemed a discretionary power to reopen the judgment within two years of the date [fol. 263] of its entry, if there be proof of ownership of the property or the right of possession and want of actual

knowledge of the escheat proceeding. It is pointed out that in this event the shareholder would not receive his stock, but only the proceeds of sale less the expenses incident to the entry of the original judgment. This, it is insisted, lessens the efficacy of the means for the enforcement of the shareholders' contract and impairs the substance and obligation of the contract, and therefore the defendant "is not protected from the claims of the stockholders."

As to (b), it is contended that the statutory procedure does not afford the stockholder "reasonable notice of the pendency of the proceeding and a reasonable opportunity to present his claim." More specifically, it is said that "the contents of the notice as prescribed by the statute" are "entirely inadequate to indicate to any interested party that the proceeding may affect his rights," and also that the "period of publication of the notice" is inadequate. The statute (R. S. 2:53-21) provides that the notice shall contain a summary of the order designating the time and place of hearing, as approved by the court, and shall be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court; and it is urged that the order designating the time and place of hearing is deficient in its failure to specify the character of the property of which escheat is sought and the names and addresses of the last known owners, and the "basis of the alleged escheat," and therefore a "summary of the notice would be no notice whatsoever to anyone." The order provides for a more specific notice directed to the last known owners at their respective last known addresses, stating the nature and character of the property [fol. 264] made the subject of the escheat proceeding; but it is maintained that the sufficiency of the statute as to notice is determined by its requirements, not by the notice actually given. The principle of the case of *Wuchter* v. *Pizzutti*, 276 U. S. 13, 48 S. Ct. 259, 72 L. Ed. 446 (1928) is invoked. It has no application here.

Procedural due process involving property rights takes into account the purposes of the procedure and its effect upon the interests concerns, and all the other circumstances bearing upon the appropriateness of the proceeding to the nature of the case. The fundamental requisite of due process is an opportunity to be heard on such notice as is

in keeping with the character of the proceeding and adequate to safeguard the right entitled to protection. *Dohany* v. *Rogers*, 281 U. S. 362, 50 S. Ct. 299, 74 L. Ed. 904 (1930), 68 A. L. R. 434. The proceeding here is *in personam* so far as the defendant corporation is concerned; and *quasi in rem* as regards the unknown owners or owners whose whereabouts are unknown. Seizure of the property was effected by personal service of process upon the defendant corporation. *Security Savings Bank* v. *California, supra.* And since personal service of process upon the holder constituted a seizure of the *res*, it is "deemed to supplement the publication as an independent notice, in itself," to the unknown owners of the abandoned property "of the seizure and of their opportunity given by the statute to appear and assert their claims against the state." *Anderson National Bank* v. *Luckett, supra.* There, the statute provided for the posting of notice of the proceeding on the court house door; and the holding was that "this, in conjunction with the notice provided by the statute itself and by the taking of possession of the bank balances by the state, is sufficient [fol. 265] notice to the depositors to satisfy all requirements of due process." Chief Justice Stone said: "The statute itself is notice to all depositors of banks within the state, of the conditions on which the balances of inactive accounts will be deemed presumptively abandoned, and their surrender to the state compelled. All persons having property located within a state and subject to its dominion must take note of its statutes affecting the control or disposition of such property and of the procedure which they set up for those purposes." As we have seen, the State has the same dominion over intangible property that it has over tangible property. *Security Savings Bank* v. *California, supra.* Procedure of the same character, initiated by the seizure of the *res*, has been sustained as providing adequate notice to absentee owners in escheat actions. *Hamilton* v. *Brown*, 161 U. S. 256, 16 S. Ct. 585, 40 L. Ed. 691 (1896); *Christianson* v. *King*, 239 U. S. 356, 36 S. Ct. 114, 60 L. Ed. 327 (1915).

Here, as in the case of *Security Savings Bank* v. *California*, the statute is not self-executing. The lapse of the prescribed time does not work an immediate escheat. The turnover of the *res* comes only after a judicial determination of the existence of the statutory conditions. There must

be proof that the owner is and has remained unknown for fourteen successive years, or that the owner's whereabouts is and has remained unknown for a like period, or that the *res* is and has remained unclaimed for the same period. A valid claim to the property made prior to the entry of the judgment of escheat prevents its transfer to the State. The notice of the proceeding prescribed by the statute is sufficient to meet the demands of due process. It is all that is practicable in the circumstances. As stated, it is provided that the notice shall contain a summary of [fol. 266] the order fixing the time and place of hearing, as approved by the court, and shall be published once a week for three successive weeks in a newspaper of general circulation designated by the court. Shorter periods have beeen deemed sufficient where land was involved. *Anderson National Bank* v. *Luckett, supra.* And it is implicit in the statute that the notice shall identify the property of which escheat is sought and the last known owner. That is of the very nature of the notice thus prescribed. There could not be "notice" within the view of the statute without identification of the subject matter of the proceeding. It does not matter whether the state receives the *res* merely as a depositary or takes it as an escheat. *Security Savings Bank* v. *California, supra.* The statute provides that the judgment entered thereunder shall operate as an absolute and unconditional release and discharge of the holder of the *res* from liability to any person other than the State Treasurer. R. S. 2:53-23.1.

The circumstances did not permit of a more effective notice. Moreover, the judgment did not terminate the right to rebut the presumption of abandonment and claim the *res.* This right was reserved to the owner in absolute and unconditional terms for a period of two years after entry of the judgment, exercisable by a motion to reopen the judgment. R. S. 2:53-31. In the performance of this function, the court is not vested with arbitrary discretion. The exercise of the statutory discretion implies conscientious judgment, not arbitrary action. The statutory criteria of ownership or right of possession and a failure of actual notice of the escheat proceeding control the exercise of power. When these conditions are met, the court must give judgment for the claimant. In the classic terms of Lord Mansfield, judicial discretion "means sound discretion [fol. 267] guided by law. It must be governed by rule, not

by humour: it must not be arbitrary, vague, and fanciful; but legal and regular." *Rex* v. *Wilkes*, 4 Burr. 2527, 2539, 98 Eng. Rep. Full Reprint 327 (1770). The statute provides no other standard of judicial action. It has in view a mere legal discretion—"a discretion to be exercised in discerning the course prescribed by law; and, when that is discerned, it is the duty of the court to follow it." *Osborn* v. *The Bank of the United States*, 9 Wheaten 738, 866, 6 L. Ed. 204 (1924).

In the case of persons missing or unknown, the practicalities and peculiarities of the case are to be regarded in determining the sufficiency of the notice of hearing. In cases of this class, it is not reasonably possible or practicable to give more adequate warning than that afforded by publication. An "indirect and even a probably futile means of notification is all that the situation permits and creates no constitutional bar to a final decree foreclosing their rights." *Mullane* v. *Central Hanover B. & T. Co.*, — U. S. —, S. Ct. —, 94 L. Ed. 578 (1950). There, a statute permitting trust companies to pool small trust estates into one common fund for investment and administration provided for the publication of notice of a proceeding for the settlement of the trustee's account "addressed generally without naming them to all parties interested" in the common trust fund. The notice required, and the only one given, was by newspaper publication setting forth merely the name and address of the trust company, the name and the date of establishment of the common trust fund, and a list of all participating estates, trusts or funds. It was held that this notice was sufficient as to beneficiaries "whose interests or whereabouts could not with due diligence be ascertained." Mr. Justice Jackson said: "As to them the statu- [fol. 268] tory notice is sufficient. However great the odds that publication will never reach the eyes of such unknown parties, it is not in the typical case much more likely to fail than any of the choices open to legislators endeavoring to prescribe the best notice practicable." Publication was held insufficient as to known present beneficiaries of known place of residence. In this regard the act was found to be incompatible with the requirements of the Fourteenth Amendment.

Where the procedure is appropriate, neither the due process clause nor any right of the defendant corporation under the contract clause is violated by a law requiring

it to deliver to the State property which has long remained unclaimed and presumably has been abandoned. The prescribed notice answers the demands of due process. No other service is feasible in the circumstances. In the nature of things the owners of the property can be treated as persons unknown.

The defendant corporation's capital stock escheated by the judgment were all shares on which dividends had remained unclaimed for more than fourteen successive years immediately prior to the institution of the proceeding. There is in this situation a presumption of abandonment. A different case would be presented if no dividends had been declared during the statutory period, and there was no showing that the owner's whereabouts was unknown for the statutory period.

It is contended also that, for want of a situs in New Jersey, the subject choses in action are not escheated here, and the judgment is *coram non judice*. The defendant corporation is a creature of and is therefore domiciled and resident in New Jersey. *State* v. *Garford Trucking, Inc.*, 4 N. J. 346 (1950). The owners of the escheated obligations [fol. 269] are missing or unknown. The property is presumptively abandoned. The sovereignty in which the corporation lives and has its being has dominion over its debtor obligations through its control of the corporation. *Security Savings Bank* v. *California, supra; Anderson National Bank* v. *Luckett, supra.* See, also, *State Tax Commission* v. *Aldrich*, 316 U. S. 174, 62 S. Ct. 1008, 86 L. Ed. 1358 (1942), 139 A. L. R. 1436; *Northwest Air Lines* v. *Minnesota*, 322 U. S. 292, 64 S. Ct. 950, 88 L. Ed. 1283 (1944), 153 A. L. R. 245; *Connecticut Mutual Life Insurance Co.* v. *Moore, supra.* The corporation was not absolved of its obligation by the creation of the trust fund with the New York bank for the payment of the declared dividends.

The statute ordains that where the value of the property made subject to escheat is less than $50, publication of any notice may be dispensed with if the court so orders; and the order here provides that in such cases "the advertisement need not contain the name nor address of such person or corporation." The judgment of escheat included this property; and to this extent it does not satisfy the demands of procedural due process. The subject matter was not sufficiently identified to constitute adequate notice. Under the statute the State does not proceed administra-

tively to take the property into its protective custody, subject to eventual escheat, as in *Provident Institution for Savings* v. *Malone*, 221 U. S. 660, 55 L. Ed. 899 (1911) and *Connecticut Mutual Life Insurance Co.* v. *Moore, supra,* but rather to subject it to escheat through judicial process, as in *Security Savings Bank* v. *California, supra;* and so there must be compliance with the requirements of due process. *Vide Anderson National Bank* v. *Luckett, supra; Connecticut Mutual Life Insurance Co.* v. *Moore, supra; Roth* v. *Delano, supra.* But the invalidity of this provision does not [fol. 270] affect the remainder of the act. R. S. 2:53-32.

The allowances to counsel and the escheator are subject to revision by the Superior Court in keeping with the decree as herein modified.

The judgment is accordingly modified, and, as so modified, affirmed.

[fol. 271] DISSENTING OPINION

VANDERBILT, C. J. (dissenting):

I am in accord with the principles and conclusions expressed in Parts I and II of the majority opinion holding that the State may not take by escheat the property possessed by the defendant when the Statute of Limitations has barred the owner's right to recover, and that the State may take by escheat that property which the defendant holds in trust, including its stock and unpaid dividends thereon, but not with that portion of Part III of the opinion dealing with the adequacy of the notice prescribed by the Escheat Act and the status of the defendant to resist the escheat. I am therefore constrained to dissent. To my mind the Escheat Act, R. S. 2:53-15, *et seq.*, is fatally defective for lack of the procedural safeguards necessary to satisfy the constitutional requirement of "due process".

The validity of the statute and the proceedings thereunder depend upon the adequacy of the notice prescribed by the statute and not by the notice that may in fact have been given in the particular instance, *Wuchter* v. *Pizzutti*, 276 U. S. 13, 72 L. Ed. 446, 45 Sup. Ct. 259 (1928); *Weiner* v. *Wittman*, 129 N. J. L. 35 (Sup. Ct. 1942). The notice to be given to the owners of the property of which escheat is sought is provided by R. S. 2:53-21. It does not require that the names and addresses of the last known owners be given,

nor that the character of the property be specified, nor that the basis of escheat be set forth. This notice, moreover need only be published once a week for three successive weeks in a single newspaper, and the owner to whom it is supposedly directed must file his claim five days before the time fixed for the hearing. Such notice is wholly inadequate when it is borne in mind that the very purpose of the act is to [fol. 272] extinguish the rights of persons whose names or whereabouts are unknown. Neither the information contained in the notice, nor the publication of it, nor the time allowed to file a claim are reasonably calculated to inform the owners of the property of the impending proceedings and to give them an opportunity to appear and protect their interests. The notice required by the statute is, in effect, no notice at all to anyone.

Nor do I consider the inadequacy of the notice required by the statute any less important because of the fact that the owners of the escheated property may apply to reopen the proceedings at any time within two years and "upon proof that they were without actual knowledge of such escheat proceedings, and of proof of ownership of such property or the right to possession thereof, the court *may in its discretion* reopen the decree" and order the State Treasurer to repay the moneys received by the State, less expenses and costs, R. S. 2:53-31. Not only does the judgment in the escheat proceeding start the running of the two year period after which the right of the owner of the property is automatically and forever barred, but the right to recover during the two year period is not absolute, but within the discretion of the court. In the majority opinion it is stated that the court must enter judgment for the claimant if "the statutory criteria of ownership or right of possession and a failure of actual notice of the escheat proceeding" are proven; that the statute contemplates a "mere legal discretion". With this interpretation I do not agree. If the claimant to the escheated property is entitled to recover upon proof of these two conditions, then the court is [fol. 273] not exercising its discretion but following the legislative mandate. In that event the words of the statute "may in its discretion" are of no meaning or effect, and it is not to be considered that the Legislature employed them fruitlessly.

I would reverse the judgment below in its entirety.

Mr. Justice Case has authorized me to state that he joins in this dissent.

[fol. 274] IN SUPREME COURT OF NEW JERSEY

Appeal Docket No. 455

Civil Action

On Appeal

STATE OF NEW JERSEY, by THEODORE D. PARSONS, Attorney General, Plaintiff-Respondent,

vs.

STANDARD OIL COMPANY, Defendant-Appellant

JUDGMENT AND MANDATE ON MODIFICATION—Filed June 27, 1950

This cause having been duly argued before this Court by Mr. Josiah Stryker, counsel for the appellant and Mr. Emerson Richards, Deputy Attorney General, counsel for the respondent, and the Court having considered the same,

It is hereupon ordered and adjudged that the judgment of the said Superior Court—Chancery Division be and the same hereby is modified; and it is further ordered that this mandate shall issue ten days hereafter, unless an application for rehearing shall have been granted or is pending, or unless otherwise ordered by this Court, and that the record be remitted to the Superior Court—Chancery Division to be there proceeded with in accordance with the rules and practice relating to that court, consistent with the opinion of this Court.

Witness the Honorable Arthur T. Vanderbilt, Chief Justice, at Trenton on the 27th day of June, 1950.

Charles K. Barton, Clerk of the Supreme Court.

[File endorsement omitted.]

[fol. 275] IN SUPREME COURT OF NEW JERSEY

[Title omitted]

PETITION FOR APPEAL FROM THE SUPREME COURT OF NEW JERSEY TO THE SUPREME COURT OF THE UNITED STATES

To the Honorable Arthur T. Vanderbilt, Chief Justice of the Supreme Court of New Jersey:

Standard Oil Company, your petitioner, respectfully shows:

Petitioner is the defendant-appellant in the above-entitled cause.

The above-named plaintiff filed a petition in the old Court of Chancery of New Jersey, on the 27th day of July, 1948, pursuant to the provisions of an Act providing for the escheat of certain personal property, (Chapter 155 of the Session Laws of 1946 of New Jersey, as amended by Chapter 357 of the Session Laws of 1947), the purpose of such proceeding being to require the appellant to pay to the State of New Jersey the amount of certain alleged claims [fol. 276] against it which had remained unpaid for a period of fourteen years and to transfer to the State of New Jersey certain shares of stock in appellant, the whereabouts of the record owners of which had been unknown to the defendant for a period of fourteen years.

On September 15, 1948, by virtue and authority of the Constitution of 1947 of New Jersey, all causes and proceedings then pending in the Court of Chancery were transferred to the Chancery Division of the Superior Court.

On December 7, 1949, final judgment was entered in favor of plaintiff in the said Superior Court, granting to it all the relief prayed for in its petition.

On appeal from said judgment, the Supreme Court of New Jersey, the highest court of said State in which a decision could be had, entered a final judgment on June 27, 1950 in said cause, by which the judgment of the Superior Court was modified, and, as so modified, was affirmed.

In said action or cause there was and is drawn in question the validity of a statute of the State of New Jersey on the ground of its being repugnant to the Constitution of the United States and the decision is in favor of its validity.

The statute involved is as aforesaid, Chapter 155 of the Session Laws of 1946 of New Jersey, as amended by Chapter 357 of the Session Laws of 1947. The decision and judgment of the Supreme Court of New Jersey was that the said statute, as construed by the Supreme Court of New Jersey, is not repugnant to the Fourteenth Amendment of the Constitution of the United States or to Article I, Sec-
[fol. 277] tion 10, Paragraph 1 of said Constitution. The decision and judgment was that the notice prescribed by the statute to be given to claimants whose whereabouts were unknown to petitioner, was adequate, and answered the demands of due process; that the statute does not deprive such of the claimants whose claims are not barred by the Statute of Limitations of their remedy for the enforcement of their contract without substituting therefor an adequate remedy; that the choses in action determined to be escheatable have a situs within New Jersey for the purpose of escheat; that the judgment of the Superior Court, as modified by the judgment of the Supreme Court of New Jersey, would therefore be one entered upon a lawful proceeding, would protect the petitioner from any subsequent assertion of the choses in action escheated, and that such judgment would not take petitioner's property without due process of law. All this was manifest error and greatly to petitioner's damage.

Petitioner has filed with this petition with the Clerk of the Supreme Court of New Jersey an assignment of errors setting out separately and particularly each error asserted by it with respect to the aforesaid decision and judgment of the Supreme Court of New Jersey, and also presents herewith a separate printed statement particularly disclosing the basis upon which it is contended that the Supreme Court of the United States has jurisdiction upon appeal to review the judgment in question.

Wherefore, petitioner prays for the allowance of an appeal from said judgment of the Supreme Court of New Jersey to the Supreme Court of the United States, in order [fol. 278] that the judgment of the Supreme Court of New Jersey may be examined and reversed to the extent indicated in the assignment of errors filed herewith.

Petitioner also prays that citation be issued as provided by law, and that a transcript of the record, proceeding and papers in this case, duly authenticated by the Clerk of the

Supreme Court of New Jersey may be sent to the Supreme Court of the United States, as provided by law.

Petitioner, desiring the appeal to be a supersedeas, further prays for an order touching the security to be required of it, if any, and the approval of such bond as may be required on this appeal.

Stryker, Tams & Horner, by Josiah Stryker, a Member of the Firm, Attorneys for Petitioner.

Dated: September, 1950.

Josiah Stryker, Counsel for Petitioner.

[fol. 279] In Supreme Court of New Jersey

[Title omitted]

Order Allowing Appeal

Standard Oil Company, the appellant in the above-entitled suit, having prayed for the allowance of an appeal in this cause to the Supreme Court of the United States from the judgment made and entered in the above-entitled suit by the Supreme Court of New Jersey on the 27th day of June, 1950, and having presented and filed its Petition for Appeal, Assignment of Errors, Prayer for Reversal and Statement as to Jurisdiction, pursuant to the statutes and the rules of the Supreme Court of the United States in such case made and provided, it is,

Ordered, that an appeal be and is allowed to the Supreme Court of the United States from the Supreme Court of New Jersey, as prayed in said petition, and that the Clerk of the Supreme Court of New Jersey shall prepare and certify a transcript of the record and proceedings in the above cause and transmit the same to the Supreme Court [fol. 280] of the United States within forty days from the date hereof.

It is further ordered that said Standard Oil Company shall give good and sufficient security in the sum of ten thousand dollars ($10,000), that said appellant shall prosecute said appeal to effect, and if said appellant fail to make its plea good, it shall answer all damages and costs, and

that upon approval of a bond in said amount this order shall operate as a supersedeas.

Dated September 21, 1950.

Arthur T. Vanderbilt, Chief Justice of the Supreme Court of New Jersey.

[fol. 281] In Supreme Court of New Jersey

[Title omitted]

Assignment of Errors

Standard Oil Company, the defendant in the above entitled action, and the petitioner on application for the allowance of the aobve mentioned appeal, assigns the following errors as those upon which it will rely in the prosecution of the appeal to the Supreme Court of the United States from the judgment of the Supreme Court of New Jersey entered on June 27, 1950.

1. The Supreme Court of New Jersey erred in holding and deciding that the debtor obligations of the petitioner and the shares of stock of the petitioner involved in the case at bar have a situs within New Jersey for the purpose of escheat by said State.

2. The Supreme Court of New Jersey erred in holding and deciding that the property escheated by the judgment of the Superior Court, as modified by the judgment of the Supreme Court, had a situs within New Jersey for the purpose of escheat and was within the jurisdiction of said [fol. 282] Superior Court, and that the appropriation of such property by the State of New Jersey would not deprive the owners thereof of their property without due process of law.

3. The Supreme Court of New Jersey erred in holding and deciding that Chapter 155 of the Session Laws of 1946 of New Jersey as amended by Chapter 357 of the Session Laws of 1947 New Jersey Annotated Statutes 2:53-15, *et seq.* and the judgment of escheat entered in this cause under and by authority of said statute protects the Standard Oil Company from liability to the persons whose property the judgment purported to escheat.

4. The Supreme Court of New Jersey erred in holding and deciding that said statute as amended requires notice to be given to the persons whose property was sought to be escheated in the proceeding which is sufficient to comply with the demands of due process of law required by the Fourteenth Amendment of the Constitution of the United States.

5. The Supreme Court of New Jersey erred in holding and deciding that the said statute, as amended, requires that the procedure prescribed by said statue affords to the persons, the escheat of whose property was involved in said proceeding, notice and an opportunity to be heard in compliance with the demands of due process of law required by the Fourteenth Amendment of the Constitution of the United States.

6. The Supreme Court of New Jersey erred in holding and deciding that the notice to the persons whose property was sought to be escheated, and the opportunity to such persons to be heard, all as provided by such statute, com-
[fol. 283] plied with the demands of due process of law required by the Fourteenth Amendment of the Constitution of the United States.

7. The Supreme Court of New Jersey erred in holding and deciding that although the above mentioned statute, as amended, and the judgment entered pursuant thereto, deprives persons, whose property may be escheated thereunder, of their respective remedies for the enforcement of their contracts against the defendant, the said statute, as amended, does not impair the obligation of said contracts in violation of Article I, section 10, paragraph 1, of the Constitution of the United States.

8. The Supreme Court erred in holding and deciding that under the said statute, as amended, the Superior Court of New Jersey had jurisdiction to escheat the choses in action covered by said judgment and that said judgment protects this defendant, petitioner herein, from any claims thereafter asserted by the persons or corporations whose choses in action are made subject to the judgment of escheat.

9. The Supreme Court of New Jersey erred in holding and deciding that the enforcement against defendant, petitioner herein, of the claims for dividends and the shares of stock escheated by the judgment of the Superior Court

dated December 7, 1949, as aforesaid, and the satisfaction of such choses in action out of the property of the defendant, petitioner herein, would not deprive the defendant, petitioner herein, of its property without due process of law and violation of the Fourteenth Amendment of the Constitution of the United States.

10. In this proceeding there was and is drawn in question the validity of a statute of the State of New Jersey, to wit, [fol. 284] Chapter 155 of the Session Laws of 1946 as amended by Chapter 357 of the Session Laws of 1947, on the ground that said statute is repugnant to the due process provisions of the Fourteenth Amendment of the Constitution of the United States, and the decision of the Supreme Court of New Jersey herein appealed from was in favor of the validity of such statute, which decision is hereby assigned as error.

11. In this proceeding there was and is drawn in question the validity of a statute of the State of New Jersey, to wit, Chapter 155 of the Session Laws of 1946 as amended by Chapter 357 of the Session Laws of 1947, on the ground that said statute is repugnant to Article I, Section 10, Paragraph 1 of the Constitution of the United States and the decision of the Supreme Court of New Jersey herein appealed from was in favor of the validity of such statute, which decision is hereby assigned as error.

For which errors Standard Oil Company, the petitioner herein, prays that the said decision and judgment of the Supreme Court dated June 27, 1950, be reversed to the extent indicated herein and that a judgment be rendered in favor of said petitioner.

Stryker, Tams & Horner, by Josiah Stryker, a Member of the Firm, Attorneys for Petitioner; Josiah Stryker, Counsel for Petitioner.

[fols. 285-293] Citation in usual form omitted in printing.

[fol. 294] In Supreme Court of New Jersey

[Title omitted]

Praecipe for Transcript of Record—Filed October 3, 1950.

To the Clerk of the Supreme Court of New Jersey:

Sir:

Please prepare a transcript of record to be certified and transmitted to the Supreme Court of the United States pursuant to the appeal heretofore allowed in this cause and include therein the following:

1. Petition.
2. Order.
3. Answer, including attached schedules.
4. Pre-Trial Order.
5. Order Fixing Time.
6. Proof of Publication.
7. Conclusions on Submission of Certain Legal Issues for Determination.
8. Order Fixing Time and Place of Final Hearing.
9. Order of Substitution.
10. Affidavit of Publication.
11. Stipulation of Facts, including six attached exhibits.
12. Amendments to Answer.

[fol. 295] 13. Reply to Amended Answer.

14. Conclusions on Final Hearing.
15. Final Judgment.
16. Notice of Petition for Certification.
17. Statement of Evidence and Proceedings.
18. Transcript of Final Hearing June 1, 1949.
19. Opinion and Dissenting Opinion of the Supreme Court of New Jersey.
20. Judgment and Mandate of the Supreme Court of New Jersey.
21. Statement in Support of Jurisdiction of the Supreme Court of the United States, including attached exhibits.
22. Petition for appeal to the Supreme Court of the United States.
23. Order allowing appeal.
24. Assignment of Errors.
25. Citation to Appellee.

26. Proof of Service on Appellee of Statement and Appeal Papers under Rule 12, Paragraph 2 of the Rules of the Supreme Court of the United States.

27. Supersedeas and Cost Bond approved by Chief Justice.

28. This Praecipe.

Stryker, Tams & Horner, by Josiah Stryker, a Member of the Firm, Attorneys for Appellant; Josiah Stryker, Counsel for Appellant.

Service of the foregoing praecipe for transcript of record [fol. 296] and the receipt of a copy thereof are hereby acknowledged this third day of October, 1950.

Theodore D. Parsons, Attorney for Appellee.

[fols. 297-299] [File endorsement omitted.]

[fols. 300-301] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 302] SUPREME COURT OF THE UNITED STATES

DESIGNATION OF POINTS INTENDED TO BE RELIED UPON AND OF PARTS OF RECORD TO BE PRINTED—Filed November 8, 1950

Pursuant to Rule 13, paragraph 9, of the Revised Rules of this Court, appellant states that it intends to rely upon all the points in its assignment of errors.

Appellant deems the following portions of the record as filed in the above entitled cause, necessary for consideration of the points relied upon, and follows the numbers assigned to said portions in its Praecipe for Transcript of Record.

1. Petition.
2. Order.
3. Answer, including attached schedules, but *omitting* the statements relating to Unpaid Wages, Unclaimed Deposits, etc. and Unclaimed Debenture Coupons found on pages 29a and 30a of the record below.
4. Pre-Trial Order.
5. Order Fixing Time.
6. Proof of Publication.

7. Conclusions on Submission of Certain Legal Issues for Determination.

8. Order Fixing Time and Place of Final Hearing.

10. Affidavit of Publication.

11. Stipulation of Facts, including Exhibits 1, 2, 3 and 4 thereof, but *omitting* the stipulated facts relating to Unpaid Wages and Salaries, Unclaimed Balances of Liberty Loan [fols. 303-304] Subscriptions, Unclaimed Commercial Bank Checks and Debenture Coupons found on pages 77a to 90a of the record below, and *omitting* Exhibits 5 and 6 of said Stipulation.

12. Amendments to Answer.

13. Reply to Amended Answer.

14. Conclusions on Final Hearing.

15. Final Judgment.

17. Statement of Evidence and Proceedings.

18. Transcript of Final Hearing June 1, 1949.

19. Opinion and Dissenting Opinion of the Supreme Court of New Jersey.

20. Judgment and Mandate of the Supreme Court of New Jersey.

22. Petition for appeal to the Supreme Court of the United States.

23. Order allowing appeal.

24. Assignment of Errors.

25. Citation to Appellee.

26. Proof of Service on Appellee of Statement and Appeal Papers under Rule 12, Paragraph 2 of the Rules of the Supreme Court of the United States.

28. Appellant's Praecipe for Transcript of Record.

Josiah Stryker, Counsel and Attorney for Appellant.

Service of a copy of the within Designation of Points and Record is acknowledged this 6th day of November, 1950.

Theodore D. Parsons. By Osie M. Silver, Attorney for Appellee.

[fol. 305] [File endorsement omitted.]

[fol. 306] SUPREME COURT OF THE UNITED STATES, OCTOBER TERM, 1950

No. 384

ORDER NOTING PROBABLE JURISDICTION—December 4, 1950

The statement of jurisdiction in this case having been submitted and considered by the Court, probable jurisdiction is noted.

Endorsed on Cover: File No. 54,890. New Jersey Supreme Court, Term No. 384. Standard Oil Company, Appellant, vs. The State of New Jersey, by Theodore D. Parsons, Attorney General of the State of New Jersey. Filed October 25, 1950. Term No. 384 O. T. 1950.

FILE COPY

Office-Supreme Court, U. S.
FILED
OCT 25 1950
CHARLES ELMORE CROPLEY
CLERK

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 384

STANDARD OIL COMPANY,

Appellant,

vs.

THE STATE OF NEW JERSEY, BY THEODORE D. PARSONS, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY

STATEMENT AS TO JURISDICTION

JOSIAH STRYKER,
Counsel for Appellant;

STRYKER, TAMS & HORNER,
Of Counsel.

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SUPREME COURT OF NEW JERSEY

No. A-134—September Term, 1949

Appeal Docket No. 455

Civil Action

THE STATE OF NEW JERSEY, by THEODORE D. PARSONS, Attorney General of the State of New Jersey,

Plaintiff-Respondent,

vs.

STANDARD OIL COMPANY,

Defendant-Appellant

ON PETITION FOR APPEAL FROM THE SUPREME COURT OF NEW JERSEY TO THE SUPREME COURT OF THE UNITED STATES

STATEMENT IN SUPPORT OF JURISDICTION

The appellant, Standard Oil Company, a corporation of the State of New Jersey, in support of the jurisdiction of the Supreme Court of the United States to review the above entitled cause on appeal, respectfully shows:

(a) Statutory Provisions Sustaining Jurisdiction

The statutory provision which sustains the jurisdiction of the Supreme Court of the United States is Section

1257 of Title 28 of the United States Code, reading to the extent relevant here, as follows:

> "Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court as follows:
>
> "(1) * * *
>
> "(2) By appeal, where is drawn in question the validity of a Statute of any State on the ground of its being repugnant to the Constitution, treaties or laws of the United States, and the decision is in favor of its validity."

(b) Statute of the State of New Jersey the Validity of Which Is Involved

The statute of the State of New Jersey, the validity of which has been sustained by the final judgment of the Supreme Court of New Jersey, the highest Court of said State in which a decision could be had as not being violative of or repugnant to the Constitution of the United States, is an act providing for the escheat of certain personal property, being Chapter 155 of the Session Laws of 1946, P. L. 1946, page 713, as amended by Chapter 357 of the Session Laws of 1947, P. L. 1947, page 1157, New Jersey Revised Statutes 2:53-15 *et seq.* The provisions of the said statute are as follows:

> 1. "The term 'personal property' as used in this act shall mean and include moneys, negotiable instruments, choses in action, interest, debts or demands due to the escheated estate, stocks, bonds deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property and the accretions thereon, up until the time of the filing of the bill of escheat, but shall not mean and include real property or property in the custody of any court in this State, nor any personal property covered by chapter one hundred ninety-nine of the laws of one thousand nine hundred and forty-five.

"Unless a different meaning clearly appears from the context, the word, phrase or term 'owner', 'beneficial owner', 'person', 'person having custody or possession', 'person having any interest', 'person entitled to', or any word, term or phrase of similar import, shall mean, include and refer to corporations, companies, associations, societies, firms, partnerships, joint stock companies, fiduciaries of any nature, as well as individuals. . . . as amended, L. 1947, . . . p. 1157."

2. "If any person, who, at the time of his death, has been or shall have been, the owner of any personal property within this State, and shall have died, or shall die, intestate, without heirs or known kindred, capable of inheriting the same, and without leaving a surviving spouse, such personal property, of whatsoever nature the same may be, shall escheat to the State."

3. "Whenever the owner, beneficial owner, or person entitled to any personal property within this State, has been or shall be and remain unknown for the period of fourteen successive years, or whenever the whereabouts of such owner, beneficial owner or person, has been or shall be and remain unknown for the period of fourteen successive years, or whenever any personal property wherever situate has been or shall be and remain unclaimed for the period of fourteen successive years, then, in any such event, such personal property shall escheat to the State . . . as amended L. 1947, . . . p. 1158 . . ."

4. "The Court of Chancery shall have jurisdiction in all cases where an escheat has occurred or shall occur under the provisions of this act. . . . as amended L. 1947, . . . p. 1158 . . ."

5. "Whenever, by reason of any information filed with the Attorney-General, or which comes to his notice so that he shall become aware of the fact that any personal property has escheated or is supposed to

have escheated to this State under the provisions of this act, he shall appoint some suitable person or persons to act as escheator of such property."

6. "Such escheator, when so appointed, shall proceed to collect and furnish to the Attorney-General or to such attorney or counsellor-at-law as he may designate, all the facts, information and evidence necessary to successfully prosecute the escheat in the Court of Chancery of this State."

7. "The proceedings in the Court of Chancery shall be by petition, in the name of the State of New Jersey, which petition shall set out that certain personal property therein designated has escheated to the State of New Jersey under the provisions of this act, and that the defendant named in such petition has custody or possession of such personal property. Such petition shall contain such other information as may be pertinent to the issue and shall petition the court to enter a decree escheating the personal property mentioned in said petition to the State of New Jersey. Such petition may describe in general terms the type or kind of such personal property, and may set forth:

"(a) That the defendant named in such petition has custody or possession of such personal property, and that the owner of, beneficial owner of, or person entitled to, the same has been and remains unknown for the period of fourteen successive years; or

"(b) That the whereabouts of such owner, beneficial owner or person entitled to such personal property has been and remains unknown for the period of fourteen successive years; or

"(c) That such personal property of such owner has been and remains unclaimed for the period of fourteen successive years; or

"(d) That the owner of such personal property has died intestate without heirs or known kindred capable of inheriting the same and without leaving a surviving spouse.

"Such petition may combine more than one of the above contingencies and relate to more than one person. The person having possession of such personal property may, after the filing of such petition, be required by an order of the Court of Chancery to furnish to the Attorney-General, or his deputy appointed to prosecute the action, all information such person having possession of such personal property may have with relation to the last known address of any person having any interest in, together with any other information relating to, such personal property.

"The Court of Chancery shall, upon the filing of such petition, make an order requiring the defendant to answer the petition within a time therein limited. Such order shall contain such other directions as the court may deem appropriate for the speedy determination of the cause, the protection of the property, or for the disclosure of information pertinent to the prosecution of the cause. A copy of the petition and order shall be served upon the defendant in the manner provided in the said order, whereupon the defendant shall, within the time limited, answer said petition and comply with said order. Upon the filing of defendant's answer, and his compliance with such order, the court shall, by a further order, designate a time and place for the hearing of said petition.

"A notice containing a summary of the order designating the time and place of hearing, as approved by the court shall be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court; *provided, however,* that in the event the value of the personal property of any one owner is less than fifty dollars ($50.00), publication may be dispensed with if the court so directs. Such notice shall direct that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the court his claim in writing, at least five days prior to the date fixed for the hearing. . . . as amended L. 1947, . . . p. 1158 . . ."

8. "Any person claiming to be entitled to the personal property described in the petition, or to any part thereof, or to any interest therein, shall file his claim in the general form of an answer to the petition, which answer shall set forth in such detail as the court may require why the answering party contends that the property mentioned in the petition should not escheat to the State and, if the answering party shall claim any right to or interest in said property, the nature thereof; and the court shall at the time of hearing take such evidence as may be proper, and proceed to determine the cause and enter such final decree as shall be equitable and just and in conformity with the provisions of this act. Such decree may determine the title to such personal property, and where the court shall find that such personal property, in whole or in part, has escheated to the State the decree shall so declare, and such personal property, or so much of it as the court shall decree, shall thereupon escheat to the State.

"In the event no answering pleadings be filed within the time fixed by order of the court, the court may proceed upon the petition alone and enter a decree declaring that the property described in the petition has escheated to the State.

"All the proceedings outlined herein shall be in conformity with the rules and practice of the Court of Chancery except as herein otherwise specified. . . . as amended L. 1947, . . . p. 1160."

9. "Upon the filing of a final decree escheating personal property, the person having such property in their possession shall forthwith deliver the same to the Treasurer of the State of New Jersey. If such personal property be in the form of money, the Treasurer shall pay the same into the general funds of the State; if in the form of negotiable securities, he shall sell the same and deposit the proceeds thereof into the treasury of the State; if in the form of other personal property, it shall be his duty to give public notice thereof and shall then proceed to sell the said property at public

or private sale, as he may deem to the best interests of the State, and shall deposit the proceeds thereof in the general funds of the State.

"Before so depositing the proceeds of said escheated property in the public fund, he shall deduct therefrom five per centum (5%) of the moneys so received and shall pay the same to the escheator as a reward for having supplied the information and evidence upon which the escheat has been successfully prosecuted and shall pay such other fees and costs as the decree shall direct.

"The Court of Chancery shall, in its final decree, fix the fees and expenses of the attorney or counsellor who shall have prosecuted the escheat in the Court of Chancery. The fees and expenses shall be deducted from the moneys received by the State Treasurer or from moneys realized by him from the sale of said personal property and shall be paid by him as directed by said decree."

10. "Any decree entered pursuant to the act to which this act is a supplement, shall automatically operate as a full, absolute and unconditional release and discharge of the person having such property in possession or custody from any and all claim, demand, or liability to any person whatever other than the State Treasurer with respect to such property, and such decree may be pleaded as an absolute bar to any action brought against such person with respect to such property by any person other than the State Treasurer. L. 1947 . . . p. 1161, . . . supplementing L. 1946, C. 155."

11. "In order to ascertain if any person has knowledge of or is in possession of any escheatable property, it shall be lawful for the Attorney-General or his deputy as designated herein to file a bill of discovery in the Court of Chancery requiring any such person or persons, named in such bill, to divulge any information they may have concerning the possession or location of any property subject to escheat, or any other

information pertinent to the recovery of such property by the State of New Jersey or which information may lead to the discovery of such escheatable property."

12. "All proceedings in escheat in the Court of Chancery shall be without costs to the State or to the parties defendant except that the court may impose such costs or counsel fees against a defendant where such defendant shall be found by the court to have defended the escheat proceedings without reasonable cause or justification."

13. "It shall be lawful to join more than one escheatable property or estate and more than one defendant having possession thereof in one bill where it appears that the amount of escheatable property in each case does not exceed one thousand dollars ($1,000.00)."

14. "Any person aggrieved by an order or decree of the court, declaring or denying the escheat of any personal property, may appeal therefrom and the proceedings upon such appeal shall be as in the case of appeals from any order or decree of the Court of Chancery."

15. "The title to property acquired by purchasers sold under and by the provisions of this Act shall be absolute."

16. "The Attorney-General or his deputy as designated herein shall at all reasonable times have access to and be entitled to certified copies of all public papers and reports filed with any department of the State Government, free from any cost, charge or fee."

17. "Upon the final determination of an adjudication in any escheat proceedings provided herein, the Attorney-General shall cause a duly certified copy of such adjudication or decree to be transmitted to the State Treasurer."

18. "Any person whose property may have escheated to the State as provided herein, or any rightful heir entitled to such property by descent, may, within two years after the filing of the final decree in the Court

of Chancery, apply to said Court of Chancery to reopen the said decree and upon proof that they were without actual knowledge of such escheat proceedings, and of proof of ownership of such property or the right to possession thereof, the court may in its discretion reopen the decree and in the event that the aforesaid decree in part or in whole be revised or amended, the court may direct the State Treasurer to repay such part of the moneys received by the State Treasurer by reason of such decree, to the party or parties in the amended decree entitled to have the same, and upon the entry of such final decree the State Treasurer shall repay the said moneys as provided in such decree; *provided, however*, that there shall first be deducted all expenses and charges that may have accrued or been paid out by reason of the entry of the original decree."

19. "The provisions of this act are severable, and in the event of any provision hereof being declared unconstitutional, it is hereby declared as the legislative intent that such unconstitutional provision shall not affect any other provision of this act."

The particular provisions of the statute which are the subject of petitioner's attack upon it as repugnant to the Constitution of the United States are sections 1 and 2 and section 7, as amended, and particularly the last paragraph of said section 7, and also section 8, when considered in connection with sections 9 and 10.

As will hereafter appear the said statute and the judgment entered pursuant thereto violate the due process of law provision of the Fourteenth Amendment to the Constitution of the United States in the following respects:

A. The statute authorizes the State of New Jersey, by taking the procedure therein outlined, to take the property of non-residents of New Jersey which property has no situs for the purpose of escheat within the State of New Jersey and over which the New Jersey Court has no jurisdiction.

B. Under the provisions of the statute and the judgment of the Court, as affirmed by the Supreme Court, the claims of third persons against the Standard Oil Company appellant for dividends and the shares of capital stock in appellant were escheated by the state without adequate notice to the owners of such property of the proceedings which resulted in the judgment and without an opportunity to be heard in violation of the due process of law provision of the Fourteenth Amendment of the Federal Constitution.

C. Under the statute and the judgment of the Supreme Court pursuant thereto, the appellant is required to pay to the State of New Jersey dividends on its capital stock to which third persons are entitled and to transfer to the State of New Jersey, in order that the same may be sold, shares of its capital stock in the ownership of third persons without any valid provision which protects the appellant from subsequently being required to pay such dividends to the owners thereof or to issue such shares of stock to the owners thereof or to pay damages to the owners of such shares, which results in depriving the Standard Oil Company appellant of its property in violation of the due process of law provision of the Fourteenth Amendment of the Constitution of the United States.

The statute violates Article I, section 10, paragraph 1, of the Constitution of the United States in that it deprives the owners of such claims and of shares of stock of their remedy for the enforcement of their contract rights without providing any adequate substituted remedy and thereby impairs the obligation of the contracts upon which such claims are based.

(c) Date of Judgment and Application for Appeal

The judgment of the Supreme Court of New Jersey here sought to be reviewed was entered on June 27, 1950,

although the form of judgment provided that it should issue ten days after said date, unless an application for a re-hearing shall have been granted or is pending or unless otherwise ordered by the Court. No application for a re-hearing was made, and the Court did not otherwise order. The date on which the application for appeal was presented was September 21, 1950 and the appeal was allowed on September 21, 1950.

Under the provisions of section 2101(c) of Title 28 of the United States Code, petitioner may take or apply for an appeal at any time within ninety days after the entry of the judgment of the Supreme Court of New Jersey.

(d) Nature of Case and Kuling Below

On July 27, 1948, the State of New Jersey commenced this proceeding in the Court of Chancery of New Jersey by filing therein a petition pursuant to the provisions of said act and serving the same upon this petitioner (defendant in the said proceeding). The Chancery petition alleged that Standard Oil Company had in its custody or possession property which is subject to escheat under the above mentioned act on the alternative grounds provided in the said statute, namely that:

> (1) The owner of such property had died intestate without leaving anyone capable of taking;
> (2) The owner had been unknown for fourteen successive years;
> (3) The property had been unclaimed for fourteen successive years;
> (4) The whereabouts of the owners had been unknown for fourteen successive years.

The Chancery petition is found in the record at D-1a *et seq.* (page 1 of defendant-petitioner's appendix to Petition for Certification.) Upon the filing of the petition the Court made an order requiring the defendant, Standard Oil Com-

pany, to retain in its custody or possession "such escheatable personal property as it now has in its custody or possession" until the further order of the Court, and also requiring the defendant to state in its answer such information regarding "the escheatable personal property in its custody or possession as is pertinent to the prosecution of this cause."

On August 24, 1948, Standard Oil Company, the defendant in said proceeding, filed its answer (D-8a) denying that it had in its custody or possession any personal property which had escheated to the State of New Jersey, admitting, however, that its books of account showed the existence of certain alleged claims against it which had been unpaid for fourteen years and that it had no certain knowledge as to the present address of the alleged claimants.

Annexed to the answer were schedules showing dividends on capital stock of the Standard Oil Company which had been unclaimed for fourteen years and the names and last known addresses of the persons shown by its books to be entitled to such dividends, and also showing the names and last known addresses of the record owners of shares of its capital stock, whose whereabouts had been unknown to it for fourteen years.

The original answer alleged that many, if not all, of the persons named in the Schedules to whom such claims were at one time payable were never citizens or residents of the State of New Jersey and that the claims of such persons never had a situs in New Jersey for the purpose of escheat, and that a decree of the Chancery Court enforcing such escheat would not protect the Standard Oil Company from the claims of other states, particularly the State of New York where the Standard Oil Company is sueable or in any other jurisdictions where it is sueable, D-12a. The

answer further alleged that the respective last known domiciles of the record owners of the shares of stock mentioned in the Schedule was outside the State of New Jersey and that so far as the defendant was informed and believes, neither the record owners of said stock nor any other person who may now own the same was ever domiciled or ever resided in the State of New Jersey, and alleged that the said State was without jurisdiction or power to escheat said shares of stock that so to do would deprive the owners of said shares of their property without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States and would expose the said defendant-petitioner herein to liability to the true owners of said shares of stock. It alleged that such liability might be asserted in the State of New York where the defendant is sueable.

On September 15, 1948, pursuant to a new Constitution of the State of New Jersey, the jurisdiction of the Court of Chancery and all cases then pending therein were transferred to the Chancery Division of the Superior Court.

Pursuant to a pre-trial order (D-31a) a hearing on the issues raised by the pleadings was set for November 30, 1948. Pursuant to an order fixing the time and place of hearing (D-32a) a notice of such hearing was published for three weeks in a newspaper published in Trenton, New Jersey, in which notice neither the amounts of the respective claims sought to be escheated nor the names and addresses of the former owners thereof were set forth. The adequacy of this notice was attacked by petitioner in its brief and oral argument on the above mentioned hearing.

On March 3, 1949, the Judge of the Trial Court filed his conclusions on the submission of certain legal issues for determination, D-36a. Most of this opinion was devoted

to the defense of the statute of limitations of New Jersey which is not involved in this appeal. However, the opinion contains the following with respect to the objections raised to the adequacy of the notice provided by the statute and of the notice actually given of the time and place of final hearing:

> "It may be informative for me to make some comment upon the requisites of the notice to be published in conformity with the probable intent and interpretation of R. S. 2:53-21, N. J. S. A.
>
> "Frankly, I regard the impoverished provisions pertaining to the notice to be given as an infirmity in the act, but not a mortal one. Viewed in its entirety the statute does afford a claimant a day in court. It also authorizes resort to service by publication. Due process requires such a notice to be reasonably adequate in its information and publication to safeguard the right comprehended by the Constitution. *Anderson National Bank* v. *Luckett, supra; Security Savings Bank* v. *California, supra; Hyman* v. *Muller*, 62 A. 2d 221.
>
> "I accordingly recommend to the Department of Law that in addition to 'a summary of the order designating the time and place of hearing,' the notice should also contain the names and last-known addresses, and amounts of money or character of property belonging to any such person or for whose benefit it is held. See Purdon's Pa. Stat. Ann. Title 27, § 438."

The Trial Court declined to pass on the question of the situs of the claims involved in the case until proof had been presented at the final hearing.

Subsequent to the preliminary hearing and prior to the final hearing, the parties agreed to a stipulation of facts which was filed with the Court (D-60a to 206a). This stipulation, among other things, set forth in Exhibit 2 thereto annexed, the names and last known addresses of the persons appearing by the books of the defendant to be

entitled to dividends which had been unpaid for fourteen years. The last known addresses of the stockholders who had claims to unpaid dividends, included stockholders whose last known addresses were in Mexico, Java, Germany, Switzerland, Uruguay, Chile, Argentine Republic, Venezuela and Holland (D-92a to D-199a) and also persons whose last known addresses were in the States of California, Illinois, and other states of the United States. The stipulation contained the names and last known addresses of the record owners of capital stock of Standard Oil Company (D-198a to 199a) only one of whom had a last known address in New Jersey. One was in New York City, one in Merida, Yucatan, Mexico; one in Watsonville, California; one in River Forest, Illinois; two in Springfield, Massachusetts; two in Kansas City, Missouri; one in Charleston, South Carolina; one in Colli De Bucarelli, Mexico.

It was further stipulated that since 1927 Standard Oil Company has had no office nor place of business within New Jersey except its registered office at Flemington, New Jersey, and since said time, Standard Oil Company has had no tangible property in New Jersey other than its stock and transfer books (D-90a).

By leave of the Trial Court and with the consent of the State the defendant-petitioner herein filed amendments to its answer.

The third defense in the amended answer (D-209a *et seq.*) alleges that none of the contracts which give rise to the claims or interest in property set forth in Schedule A annexed to the original answer or in the Exhibits attached to the stipulation of facts was made in New Jersey, nor to be performed in New Jersey. Such contracts were enforceable elsewhere. With the exception of the claimants shown in the Schedule annexed to the original answer

and in the Exhibits attached to the stipulation as having last known addresses within New Jersey, none of the persons listed in such Schedule or Exhibit, as formerly entitled to the claims set forth therein were residents of or domiciled in New Jersey; that the State of New Jersey had no jurisdiction of the choses in action set forth in Schedule A annexed to the original answer or in the Exhibits attached to the stipulation of facts because such choses in action never had a situs in the State of New Jersey for the purpose of escheat; that said claims, if subject to escheat in any jurisdiction, would be subject to escheat in jurisdictions other than New Jersey and that any decree of the Court which purported to discharge Standard Oil Company from its obligations to pay such claims would be of no force and effect and not binding upon the persons entitled to said claims nor upon any other jurisdiction which might seek to escheat said claims. In this answer it was alleged that any decree entered under the statute to escheat such claims would deprive this defendant of its property without due process of law in violation of the Fourteenth Amendment of the United States Constitution.

The fourth defense alleged that because of the inadequacy of the statutory notice to the claimants a judgment of escheat entered pursuant to the statute would deprive such claimants of their property without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States; that the decree entered pursuant to such statute would not protect this defendant against the claims of such claimants and would deprive this defendant of its property without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States.

The fifth defense alleged that the procedure provided by the statute when resulting in a decree of escheat would

deprive the claimants of the remedy under their respective contracts with the defendant, without substituting any adequate remedy in place thereof in violation of Article I, section 10, paragraph 1, of the Constitution of the United States and of the due process of law provision of the Fourteenth Amendment of the Constitution of the United States. The inadequacy of the substituted remedy provided by the statute as alleged in the said fifth defense was based upon the inadequacy of the notice prescribed by the statute, the entire inadequacy of the publication thereof in view of the facts and circumstances of the case and the inadequacy of any subsequent remedy of the claimants against the State. This defense further alleged that any decree requiring the defendant to pay these claims to the State of New Jersey would not be binding on the persons entitled to said claims.

On March 21, 1949, the Trial Court entered an order fixing April 27, 1949 at the State House Annex, Trenton, New Jersey as the time and place of final hearing of the cause and directing that the notice of such final hearing be advertised in a newspaper of general circulation in Mercer County once a week for three successive weeks, addressed to and containing the names and last known addresses of persons or corporations apparently having unclaimed beneficial interest in or ownership of the personal property sought to be adjudged to escheat to the State and directing that any of the said persons or corporations or any other person or corporation claiming a beneficial interest in or ownership of the personal property, or any part thereof mentioned in the petition, shall file with the Court his or its claim in writing at least five days prior to the date fixed for the hearing, *provided, however,* that in the event the value of the personal property of any one apparent owner is less than $50.00 the advertisement need not contain the name or address of such person or corporation.

The validity of this proviso was attacked in the Court below, both under the State Constitution and the Fourteenth Amendment of the United States Constitution and the Supreme Court determined that it was invalid but that it was severable from the rest of the act. The validity of the above mentioned proviso is, therefore, not within this appeal.

The notice was published three times in the Trenton Times, a newspaper published in Trenton, New Jersey, appears on D-55a to 58a. It was not addressed as required by the order but it contains the names and last known addresses of twenty-one persons, some of whom are the record owners of capital stock of Standard Oil Company, and unpaid dividends thereon and others of whom are only the owners of unpaid dividends. The addresses include New York City; Yucatan, Mexico; Memphis, Tennessee; Dallas, Texas; Wheeling, West Virginia; Washington, D. C.; River Forest, Illinois; Logan, Ohio; Kansas City, Missouri; Springfield, Massachusetts; Charleston, South Carolina; Calle De Bucarelli, Mexico, and Manhattan, Kansas.

After extended argument on the day fixed for hearing and the submission of briefs by both parties, the Trial Judge determined that the notice was adequate; that every claimant had had an adequate opportunity for a hearing and a determination of his rights; that all of the claims had a situs in New Jersey for the purpose of escheat and that the statute was valid and not subject to any of the objections raised in the answer as amended and argued at length in the briefs and oral argument. His opinion is reported in 5 N. J. Superior, page 460. Portions of the opinion which deal with the questions herein involved are reported at pages 475 *et seq.* A copy of said opinion is

hereto annexed as Exhibit A. The pertinent portions of said opinion appear at Pages 43 to 47 of this Statement.

Pursuant to the statute above mentioned the judgment of the Trial Court determined that unpaid dividends amounting to $6,238.01; twelve shares of common stock of Standard Oil Company having an aggregate par value of $300.00; unpaid wages of former employees of Standard Oil Company amounting to $31,381.08; amounts withheld of former employees of Standard Oil for the purchase of Liberty Bonds aggregating $1,210.00 and amounts of unpresented commercial bank checks issued by Standard Oil Company aggregating $8,561.62; amounts due on account of debenture coupons aggregating $3,125.00 were all subject to escheat and required Standard Oil Company, the petitioner herein, to pay the above amounts to the State of New Jersey and to issue in the name of and deliver to the Treasurer of New Jersey certificates for twelve shares of common stock of the Standard Oil Company which last mentioned certificates were not in possession of or under the control of the Standard Oil Company. The judgment further fixed the fees of counsel and of the escheator.

Pursuant to the rules of the New Jersey Supreme Court, the court of last resort in New Jersey, that court, on application of Standard Oil Company, the petitioner herein, made an order certifying the above mentioned judgment of the Superior Court to the Supreme Court.

The questions involved in the said appeal to the Supreme Court which are material to this application included (1) the contention of the petitioner herein that the choses in action and shares of capital stock which the judgment escheated to the state had no situs in the State of New Jersey for the purpose of escheat; that the Superior Court was, therefore, without jurisdiction, and that the provisions of the statute which authorized entering such judgment were in violation

of the due process of law provisions of the 14th Amendment of the Constitution of the United States; (2) that because of the foregoing, the said judgment did not protect the petitioner herein from the assertion by the owners of such shares of stock, or of any of such claims of their claims against the petitioner herein; (3) that the notice prescribed by the statute and the procedure therein prescribed did not afford to the claimants adequate notice of the time, place and purpose of hearing and an opportunity to appear and assert their claims and that the statute and the judgment entered pursuant thereto deprived the owners of such claims and of such shares of stock of their property without due process of law in violation of the 14th Amendment of the Constitution of the United States and that such statute and the judgment entered thereunder are invalid; (4) that the judgment of the Superior Court, pursuant to the statute is invalid because it attempts to deprive the owners of the claims of their remedy for the enforcement of the contracts upon which such claims were based without substituting any adequate remedy for the enforcement of such contracts and that, thereby, the obligation of such contracts was impaired in violation of Article I, Section 10, paragraph 1 of the Constitution of the United States. Because such judgment is invalid it affords no protection to the defendant-petitioner herein. All of the questions above mentioned were fully argued in the briefs and orally before the Supreme Court.

The Supreme Court modified the judgment of the Superior Court by determining that choses in action, the enforcement of which was barred by the New Jersey Statute of Limitations, were not included within the purview of the act and therefore could not be escheated thereunder.

The Supreme Court held, however, that claims for dividends and claims for shares of capital stock were not barred

by the Statute of Limitations and affirmed the judgment of the Superior Court escheating such claims. A copy of such judgment is hereto annexed and marked "Exhibit B" (Page 47 of this Statement).

The Supreme Court determined that the notice prescribed by the statute was adequate; that the publication of the notice and the time allowed to the claimants for the presentation of their claims to the court was sufficient; that the choses in action covered by the decree all had a situs in New Jersey for the purpose of escheat, notwithstanding the fact that the contracts on which choses in action were based were not made in New Jersey, that the owners of such choses in action were never in New Jersey and that the contracts were enforceable against the petitioner herein outside of New Jersey. The New Jersey Supreme Court accordingly held that neither the statute nor the procedure thereunder violated the due process of law provisions of the 14th Amendment of the Constitution of the United States or Article I, Section 10, paragraph 1, of said Constitution.

The dissenting opinion of Chief Justice Vanderbilt, in which Justice Case concurred, held that the notice prescribed by the statute was entirely inadequate, that the statute did not require the names and addresses of the last known owners of the claims in question to be stated in such notice or that the character of the property be specified therein, or that the basis of escheat be set forth therein; that the requirement that the notice be published for three successive weeks in a newspaper in Mercer County, New Jersey, and that the claimants of the property involved in the proceeding must file their claims within five days prior to the time fixed for the hearing was also inadequate and that the statute violated the due process of law provisions of the 14th Amendment of the Constitution of the United States. The two dissenting judges voted for a reversal of the judgment below in its entirety because of the inade-

quacy of the notice prescribed by the statute and the inadequacy of the opportunity for a hearing. A copy of the opinion of the Supreme Court and of the dissenting opinion is hereto annexed, marked "Exhibit C" (Page 49 of this Statement. A copy of the judgment of the Supreme Court is hereto annexed, marked "Exhibit D" (Page 73 of this Statement).

Substantiality of the Questions Involved

Standard Oil Company, the petitioner herein, respectfully represents that the questions involved in its appeal to the Supreme Court of the United States are of a substantial nature.

It is well established that an appeal will not be dismissed for want of a substantial Federal question, unless the questions of the appellant are "clearly not debatable and utterly lacking in merit as to require dismissal for want of substance." *Hamilton* vs. *Regents of the University of California*, 293 U. S. 245, 258. See also *Alton R. Co.* vs. *Ill. Com.*, 305 U. S. 548, 550; *Cheseboro* vs. *Los Angeles Co. Dist.*, 306 U. S. 459, 463.

The issues raised by Standard Oil Company, petitioner herein, are that the statute here in question violates the due process of law clause of section 1 of the Fourteenth Amendment to the Constitution of the United States and the provision of Article I, section 10, paragraph 1, of the Constitution of the United States which provides that no state shall pass any law impairing the obligations of contracts.

The contention that the statute in question violates the due process of law provision of the Fourteenth Amendment is based in part upon the belief that the statute could not lawfully provide for the escheat of the choses in action in question because such choses in action had no situs in New Jersey for the purpose of escheat.

The Supreme Court of New Jersey held that "the sovereignty in which the corporation lives and has its being has dominion over its debtor obligations through its control of the corporation." Citing: *Security Savings Bank* v. *California*, 263 U. S. 282; *Anderson National Bank* v. *Luckett*, 321 U. S. 233; *State Tax Commission* v. *Aldrich*, 316 U. S. 174; *Northwest Airlines, Inc.* v. *Minnesota*, 322 U. S. 292; and *Connecticut Mutual Life Insurance Company* v. *Moore*, 333 U. S. 541.

The cases cited are readily distinguishable from the case at bar. In *Security Savings Bank* v. *California* the jurisdiction of the Court over deposits made by non-residents was sustained on the ground that the unclaimed deposits were debts due by a California corporation with its place of business there, and that they arose out of contracts made and to be performed there. See page 285. The facts in the *Anderson National Bank* were the same in this respect as in the *Security Savings Bank* case.

In the case at bar the last known owners of almost all of the choses in action are non-residents of New Jersey. There is no proof that they were ever in New Jersey or ever had any contact with that State, except the ownership of stock in a New Jersey corporation, and the resulting right to dividends on such stock.

The Standard Oil Company has had no place of business in New Jersey since 1927 and owns no tangible property therein, except certain records at its registered office. The contracts on which the claims are based were not made in New Jersey and were not to be performed there. While they were enforceable in New Jersey, they were also enforceable in the State of New York and elsewhere where jurisdiction of the Standard Oil Company may be secured.

In *United States* v. *Klein*, 303 U. S. 276, the funds escheated by the State of Pennsylvania were within the control of the United States District Court of a Pennsylvania district. The claimants to such funds could not secure them

without coming into Pennsylvania and establishing their claims before that Court.

State Tax Commission v. *Aldrich*, 316 U. S. 174; *Northwest Airlines* v. *Minnesota*, 322 U. S. 292, were tax cases. We concede that a close in action may at the same time have a situs in more than one jurisdiction for the purpose of taxation, and perhaps for some other purposes. We contend that a chose in action may not have a situs in more than one jurisdiction at the same time for the purpose of escheat.

An escheat case differs radically from the subject matter involved in *Pennington* v. *Fourth National Bank*, 243 U. S. 269, cited in the opinion in *Security Savings Bank* v. *California*. In the *Pennington* case, a bank deposit of a non-resident defendant was attached at the suit of his wife in order to satisfy her claim for alimony. In other words, the property of the non-resident defendant was not confiscated but was devoted to the payment of a lawful claim against him. In the case at bar, the judgment confiscates shares of capital stock and dividends stock of the certain stockholders of the defendant thereof simply because the defendant has not known the whereabouts of the owner for fourteen years.

We have found no decision of the United States Supreme Court or, in fact, any decision of a state court which determines that a chose in action owned by a non-resident, based upon a contract made outside of the State of the domicile of the corporate party to the contract, and not required to be performed in such State and enforceable outside of such State, as well as within it, has a situs in the State of the domicile of the corporation for the purpose of escheat. This is one of the questions which the petitioner desires to present to the United States Supreme Court in its appeal.

The decision of the United States Supreme Court in *Connecticut Mutual Life Insurance Company* v. *Moore*, 333 U. S. 541, dealt with the validity of a statute of New York

which required insurance companies organized under the law of states other than New York to pay over to that State proceeds of insurance policies unclaimed for a designated period. The United States Supreme Court determined that the New York statute was valid with respect to policies issued for delivery in New York upon the lives of persons then resident therein, if the assured continued to be a resident of New York and the beneficiary was a resident of such State at the maturity of the policy. See 333 U. S. at page 550. The case cited was an action for a declaratory judgment.

It appears in the dissenting opinion of Mr. Justice Jackson that some of the insurance policies involved in the case cited were within the Pennsylvania statute of escheats, as the issuer of such policies, was a corporation of the State of Pennsylvania. The Court did not directly pass upon the power of the State of Pennsylvania to escheat the proceeds of the same policies which it held that the State of New York had the power to take. That question is involved in principle in the case at bar. If the State where the contract was made and where the claimants thereunder reside has the power to escheat the claims, we respectfully submit that New Jersey has no such power. In such a case the judgment of the State Court is void and affords no protection to the defendant-petitioner against the State having the jurisdiction to escheat such claims or against the owners of the claims included in the judgment.

With Respect to the Adequacy of the Statutory Notice

With respect to the adequacy of the notice prescribed by the statute, we respectfully submit that the statute in question fails to provide for the claimants a reasonable notice of the time and place of hearing and an opportunity to be heard and that, in this respect, the statute violates the due process of law provision of the Fourteenth Amendment. In *Secur-*

ity Savings Bank v. *California*, 263 U. S. 282, 287, the court, after stating that it was not of legal significance whether the proceeding be described as *in rem* or *quasi in rem*, said:

> "In either case the essentials of jurisdiction over the deposits are that there be seizure of the *res* at the commencement of the suit; and reasonable notice and opportunity to be heard."

In the case cited, each depositor was made a party to the proceeding. The summons issued therein named all of the parties and was published, together with a notice to any unknown person claiming under such parties. The procedure is outlined in the opinion of the Supreme Court at pages 284 and 285 and also in the opinion of the California Supreme Court, 186 California 419. *Anderson National Bank* v. *Luckett*, 321 U. S. 233, did not involve an escheat which divested the title of the depositor as in the case at bar. The procedure considered by the court involved merely a custodial taking by the state. The statute provided proceedings for a subsequent escheat but these proceedings were not considered by the court. Notwithstanding this fact, the court held that if the statute failed to provide for adequate notice to the depositors, the bank would not be protected from claims against it by such depositors.

The requirement of adequate notice is also stated in the opinions in *Windsor* v. *McVeigh*, 93 U. S. 274 and *Hassell* v. *Wilcox*, 130 U. S. 493.

The only statutory procedure for notice in the case at bar is contained in Section 7 of the act and is as follows:

> "A notice containing a summary of the order designating the time and place of hearing as approved by the Court shall be published in a manner directed by the Court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the Court * * * such notice shall direct that any person who may claim to be entitled to

the personal property mentioned in the petition, or to any part thereof or interest thereon shall file with the Court his claim in writing at least five days prior to the date fixed for hearing."

Attention is called to the fact that all that the statute requires the notice to contain is a summary of the order designating the time and place of hearing. The only publication that it requires is a publication for three successive weeks in a newspaper of general circulation. The only opportunity that a claimant has to appear and be heard is upon filing his claim in writing at least five days prior to the date fixed for hearing.

The order fixing the time and place of hearing does not contain the name of any claimant and does not describe any of the property in question. Neither does it refer to the character of the proceeding and a summary of the order is all that the statute requires to be published. Such a summary would mean nothing to the owner of any of the claims if, perchance, it should be called to his attention. The order was made on the 21st day of March, 1949 and the time and place fixed for hearing was the 27th day of April, 1949, at 10:00 A. M. at the Court Room, State House Annex, Trenton, New Jersey.

It is true that the order provided that the notice published should be addressed to and contain the last known names and addresses of the persons or corporations apparently having unclaimed beneficial interest in or ownership of the personal property sought to be adjudged to escheat. The notice actually published was not addressed to anyone although the body of the notice contained the names of 22 claimants and specified the property to which they appeared to have title. The order did not expressly require that the character of such personal property should be specified in the notice or that the reason for the claimed escheat should be therein stated.

We respectfully submit that the test of the validity of the act with respect to notice and an opportunity to be heard is what may be done by complying with its provisions. If the act itself fails to require adequate notice, the fact that the Court, although not required by the act so to do, supplements the requirement of the act, will not render either the act or the procedure thereunder valid. See *Stuart* v. *Palmer*, 74 N. Y. 183, Ct. of Appeals 1878, cited with approval and followed in *Wuchter* v. *Pizzutti*, 276 U. S. 13 (1928). See also *Security Trust Company* v. *Lexington*, 203 U. S. 323 (1906); *Coe* v. *Armour Fertilizer Works*, 237 U. S. 413 (1915) and cases therein cited.

The Supreme Court of New Jersey, in its opinion, conceded that the statute would be invalid and the procedure thereunder would have no validity if the statute failed to provide for adequate notice and an opportunity to be heard. The court said, however, 5 N. J. at page 307 and in Exhibit C (Pages 67 and 68 of this Statement).

> "And it is implicit in the statute that the notice shall identify the property of which escheat is sought and the last known owner. That is of the very nature of the notice thus prescribed. There could not be 'notice' within the view of the statute without identification of the subject matter of the proceeding."

It will be noted that the Supreme Court did not definitely state that the statute required that the basis of the State's claim of escheat should be stated in the notice.

The dissenting opinion said with reference to the notice:

> "The notice to be given to the owners of the property of what escheat is sought is provided by R. S. 2:53-21. It does not require that the names and addresses of the last known owners be given, nor that the character of the property be specified, nor that the basis of escheat be set forth. This notice, moreover, need only be published once a week for three successive

weeks in a single newspaper, and the owner to whom it is supposedly directed must file his claim five days before the time fixed for the hearing. Such notice is wholly inadequate when it is borne in mind that the very purpose of the act is to extinguish the rights of persons whose names or whereabouts are unknown. Neither the information contained in the notice, nor the publication of it, nor the time allowed to file a claim are reasonably calculated to inform the owners of the property of the impending proceedings and to give them an opportunity to appear and protect their interests. The notice required by the statute is, in effect, no notice at all to anyone."

We concede that ordinarily the United States Supreme Court accepts the construction of a state statute adopted by the highest court of the state. We respectfully submit, however, that the meaning attributed by the New Jersey Supreme Court to the portion of Section 7 of the New Jersey statute which has above been quoted is not based upon anything expressed or reasonably implied in the statutory provisions. The language of the statute prescribes what shall be included in the notice and the court is authorized by the statute to approve any notice which complies with the statutory requirements. the fact that the trial court supplemented the requirement of the statute does not render the act or the procedure thereunder valid. Neither is the statute rendered valid by a construction thereof not supported by anything contained in the statute.

The above quoted language of the Supreme Court is equivalent to a statement that a notice which contained only what the statute expressly requires would be no notice and, therefore, the court added to the statute a requirement which was not there. The excerpt from the dissenting opinion, which has been quoted above, is based upon the language of the act with no attempt at judicial legislation.

The case at bar differs widely from *American Land Company* v. *Zeiss*, 219 U. S. 47, in which it was held that the court would accept the construction of a statute of California which had been adopted by the Supreme Court of that state. In the *American Land Company* case, the construction placed upon the statute by the State Court was a reasonable construction fairly implied by the language of the statute. The language of the statute in the case at bar is so clear that there is no room for construing it otherwise than by the meaning of the words the Legislature used.

In *Scott* v. *McNeal*, 154 U. S. 34, at page 45, the court said:

> "Upon a writ of error to review the judgment of the highest court of a State upon the ground that the judgment was against a right claimed under the Constitution of the United States, this court is no more bound by that court's construction of a statute of the Territory, or of the State, when the question is whether the statute provided for the notice required to constitute due process of law, than when the question is whether the statute created a contract which has been impaired by a subsequent law of the State, or whether the original liability created by the statute was such that a judgment upon it has not been given due faith and credit in the courts of another State."

The objection to the notice required by the statute in this case is not only to the inadequacy of its language but also to the fact that publication three times in a newspaper in Trenton, New Jersey, where none of the claimants resided or ever had resided so far as the record shows was wholly inadequate. The newspaper was circulated in a place where it was almost certain not to be seen by the claimants in Mexico, California, Texas and Kansas City, although the last known addresses of the claimants which

appeared in the record clearly indicated places where more useful publication could have been made.

The State Supreme Court relied, in its opinion, on the recent decision of the United States Supreme Court in *Mullane* v. *Central Hanover Bank & Trust Company*, 339 U. S. 306, 94 Law Ed. 578, 1950. We respectfully submit that the State Court misapprehended the legal effect of such decision. In the case cited, the court said at page 583:

> "But when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it was in itself reasonably certain to inform those affected, compare Hess *v.* Pawloski, 274 U. S. 352, 71 L. Ed. 1091, 47 S. Ct. 632, with Wucher *v.* Pizzutti, 276 U. S. 13, 72 L. Ed. 446, 48 S. Ct. 259, 57 ALR 1230, or, where conditions preclude reasonable certainty of actual receipt of notice, and the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes."

The notice required by the statute in the escheat case under consideration clearly failed to conform to the standard set forth in the above quotation, either with respect to the contents of the notice or the place and time of publication thereof.

It was held in the *Central Hanover Bank & Trust Company* case that, in the circumstances there present, notice of the settlement of the account of the trustee was not required to be sent to persons whose names and addresses were unknown to the trustee and that publication of a notice or citation required by the statute, addressed generally to all parties interested in the common trust fund or in such estates, trusts or funds mentioned in the petition,

was adequate as to the persons whose names and addresses were unknown to the trustee.

In the case cited, however, the statute provided for the appointment of a special guardian and attorney for all persons known or unknown, not otherwise appearing, who had or might thereafter have any interest in the common trust fund and also a special guardian and attorney to represent those similarly interested in the corpus. Since the separate trusts were specified in the notice, there was at least a probability that the persons interested in such trusts would know of their interest and would be advised by the notice of the proceedings.

The State Supreme Court also cited, in support of its holding, the cases of *Hamilton* v. *Brown*, 161 U. S. 256, and *Christianson* v. *King*, 239 U. S. 356. In *Hamilton* v. *Brown*, which was a proceeding to escheat land located in the State of Texas, the statute required that *scire facias* be issued to all persons named in the petition, if in possession of or claiming the estate, requiring them to appear and show cause why it should not be vested in the state. The statute further required an order of notice to be published four weeks in a newspaper printed within the state, stating briefly the contents of the petition and requiring all persons interested in the estate to appear and show cause why the land should not be vested in the state. The mere recital of these statutory provisions shows a wide difference between the notice in the case cited and the notice required by the statute here under consideration.

In *Christianson* v. *King County*, which was also a case of escheat of land, the petition showed that no heirs at law of the decedent had been found after diligent search. The decree was made after publication of a notice for four weeks in a local newspaper. The form of notice does not appear in the opinion and was not considered by the court as apparently no objection thereto was made.

In *Cunnius* v. *Reading School District*, 198 U. S. 458, cited in *Mullane* v. *Central Hanover Bank & Trust Company*, the statute required that a notice be inserted for two successive weeks in a newspaper published in the county and also, when practicable, in a newspaper published at or near the place beyond the state where, when last heard from, the supposed decedent had his residence.

The State Supreme Court, in its opinion, said "The circumstances did not permit of a more effective notice." If the Legislature had intended to comply with due process of law, it could readily have required the publication of a notice addressed to the claimants specifying the claim which each had, stating the nature of the proceeding and the basis of the state's claim to escheat. In fact, the additions to the notice, not required by the language of the act or even by the State Supreme Court's additions to the act, did not include any statement of the reason why escheat was claimed.

The State Court sought to buttress its finding that the notice was sufficient by the statement that the judgment did not terminate the right to rebut the presumption of abandonment and claim the *res*. This statement is based upon Section 18 of the statute.

Whether the construction placed upon Section 18 of the act by the court or the construction placed upon it by the dissenting opinion is correct, it is true that, with respect to the shares of stock which are escheated, the owner who succeeds in having the decree opened receives not his shares of stock but merely the proceeds of sale thereof, less the counsel fee allowed to the counsel for the state, the fees of the escheator and the costs of the proceeding or the portions of such reductions allocated by the court to his shares of stock.

The Statute and the Procedure Thereunder Violates Article I, Section 10, Paragraph 1 of the Constitution of the United States in That It Impairs the Obligations of the Contracts of the Claimants.

All of the claims in question are based upon contract. But for the judgment in this case, the contracts would be enforceable against the Standard Oil Company, the petitioner herein. If, as we contend, the judgment in this case is invalid because it violates Article I, Section 10, paragraph 1 of the United States Constitution, it will not protect the Standard Oil Company against those claims if asserted against it. The judgment attempts to divest the right of the claimants to enforce their contracts. Because of the inadequacy of the notice and the failure to afford the claimants an opportunity to be heard in the proceeding and to assert their claims, the procedure provided by the act is not a reasonable substitute for the remedy which the claimants had prior to the entry of such judgment.

This case was instituted by the State of New Jersey as a test case. More than one hundred similar cases are now pending in the Superior Court of New Jersey, in which New Jersey corporations are defendants. It is, we believe, of importance to the State and to the defendants that the Constitutional questions involved be determined by the United States Supreme Court.

Cases Sustaining Jurisdiction

1. Timeliness of Appeal. The Petition of Appeal was presented on the 21st day of September, within ninety days from the entry of the judgment of the New Jersey Supreme Court September 27, 1950, which was entered on June 27, 1950, *Department of Banking* v. *Pink*, 317 U. S. 264.

2. Jurisdiction to entertain an appeal from the decision of a State Court of last resort on the ground that a State

statute violates the due process of law provision of the Fourteenth Amendment to the Constitution of the United States where the State court has determined that such statute does not violate such provision. *Connecticut Mutual Life Insurance Company, et al.,* v. *Moore,* 333 U. S. 541; *Mullane* v. *Central Hanover Bank & Trust Company,* 94 U. S. S. Ct., L. Ed. 578; *Security Savings Bank* v. *State of California,* 263 U. S. 282; *Anderson National Bank* v. *Luckett,* 321 U. S. 233.

3. Jurisdiction to entertain an appeal from the decision of a State Court on the ground that a State statute violates Article I, Section 10, paragraph 1, of the Constitution of the United States, where the decision of the State Court has determined that such statute does not violate such constitutional provision. *Williams* v. *Louisiana,* 103 U. S. 637; *Hurbert* v. *New Orleans,* 215 U. S. 170, 175; *Atlantic Coast Line* v. *Phillips,* 332 U. S. 168, 170; *Connecticut Mutual Life Insurance Company* v. *Moore,* 333 U. S. 541.

Therefore, the appellant, Standard Oil Company, respectfully submits that the Supreme Court of the United States has jurisdiction of this appeal by virtue of Section 1257 of Title 28 of the United States Code.

Respectfully submitted,

STRYKER, TAMS & HORNER,
By JOSIAH STRYKER.

JOSIAH STRYKER,
Counsel.

EXHIBIT A

SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION, MERCER COUNTY, DOCKET 169/14

BETWEEN THE STATE OF NEW JERSEY by THEODORE D. PARSONS, Attorney General of the State of New Jersey, *Plaintiff*,

and

STANDARD OIL COMPANY, *Defendant*

Civil Action on Final Hearing

Conclusions

Mr. Emerson L. Richards, Special Deputy Attorney General, for the State,

Messrs, Stryker, Tams & Horner (Mr. Josiah Stryker and Mr. Baldemar Beeken, of counsel), for the defendant.

JAYNE, *J. S. C.*:

This action will be recalled as a proceeding instituted in pursuance of the terms of a legislative enactment entitled "An Act providing for the escheat of certain unclaimed personal property," and its amendments (R. S. 2:53-15 to 2:53-32, N. J. S. A.), in which on March 3, 1949, I filed a preliminary memorandum concerning certain controversial points, the legal character of which I was requested to consider in abstract form. 64 A. 2d 386. To avoid redundancy of discussion and unnecessary reproduction of citations, the present memorandum is to be regarded as an augmentation of the antecedent opinion.

I heretofore resolved that the so-called Escheat Act is not manifestly unconstitutional on its face. I adhere to that determination. I again conclude as an abstract question that where a right of action has become barred under the provisions of our statutes of limitations, the statutory defense in its ordinary application is, in the existing law of the State of New Jersey as announced by our adjudications and in its relation to the persons implicated, a vested right extinguishing the debt or legal obligation. See citations in 64 A. 2d 386.

Notwithstanding the illumination produced by the stipulation of facts, the cardinal point of controversy in the present proceeding continues to attach to the defensive averment that in consequence of the tolling of the statute of limitations the defendant under the authority of our adjudications has acquired a vested right and title to most of the alleged escheatable property.

I unhesitatingly acknowledge that the courts of many other states have conceived such statutes to be mere limitations of remedy and not efficacious either to destroy or to transpose fundamental rights. Nevertheless, it seems to me that the rejection, displacement or inversion of the principle enunciated in our State by Chief Justices Beasley and Gummere, favored by Justice Bradley of the United States Supreme Court and concurred in by former Justices Dixon, Van Syckel, Depue, Magie, Garrison, Swayze, Parker, Trenchard, Bergen, Minturn, and Kalisch, is a proposal more properly to be cogitated and resolved upon by our court of last resort.

It is the insistence of the defendant that:

> "All of the said claims aid all choses in action with relation thereto accrued and arose against the defendant more than six years prior to the passage of the Escheat statute, and that any right of action thereon was barred by the Statute of Limitations before the enactment of the Escheat statute;
>
> "By virtue of the bar of the Statute of Limitations, the said claims and choses had become legally extinguished and legally unenforceable against the defendant;
>
> "At the time of the enactment of the Escheat statute, the defendant had a vested right in the defense of the Statute of Limitations as to all such claims;
>
> "The legislature had no power to divest the said vested right to the defense of the Statute of Limitations, whether the legislature did so in the interest of the original claimants or in the interest of the State of New Jersey;
>
> "If the Escheat statute is construed so as to provide for the escheat of such claims to the State of

New Jersey, the said Act violates both the New Jersey Constitution and the Constitution of the United States, in that it violates the right of the defendant to acquire, possess and protect property and that it takes the property of the defendant for the public use of the State of New Jersey without compensation and that it deprives the defendant of its property without due process of law."

Obviously, if the principle which is presently regarded as establishing a vested right in the debtor with its consequent annihilation of the debt and in some instances its resultant transmission of title were to be abrogated, my present problem would materially evaporate.

At the argument I was fervidly invited to realize that to sustain the claim of the State against the defendant's invocation of the effectiveness of the statute of limitations would visit no prejudicial injury upon the defendant, whereas to confirm the defendant's contention upon that issue would in effect enable the defendant to aggrandize its private resources by bequests of unearned and undeserved assets.

I do not decline to envision the equitable aspects of the subject. In the composition of the Escheat Act of present interest the legislature expressly conferred upon the former Court of Chancery exclusive jurisdiction over the contemplated proceedings, presumably with the intention that such proceedings would be governed by the principles and practices of a court of equity.

The jurisdiction of the former Court of Chancery has been transferred in its entirety to this court to be exercised primarily by its Chancery Division. *Steiner* v. *Stein*, 2 N.J. 367, 66 A. 2d 719.

True, the rule has been familiar to us that if the subject matter in controversy in a Court of Chancery is of an equitable nature, not cognizable in a court of law, statutes of limitations although not ignored have no obligatory application, but the court will instead apply the doctrine of laches according to its discretion, regulated by the peculiar circumstances and by the pertinent precedents.

Implicit in the terms and provisions of the Escheat Act

is the persuasion of the legislature that the retention of abandoned and unclaimed personal property for an ultimate and eventual disposition to the beneficial owner has constituted a relationship in the nature of a trust, hence the investment of jurisdiction in equity.

True, also, equity jurisprudence is not bare of a remedy in the prevention of unjust enrichment. The constructive trust, although essentially a remedial concept, has supplied the formula through which in a variety of harsh and unfair situations the conscience of equity finds expression.

But here it may be answered that the enrichment which a debtor may derive from the operation of the statute of limitations is not inimical to the public policy that recommends and sustains such statutes, and thus any resulting advantage therefrom to the debtor is not to be regarded as unjust or inequitable. Habitually in the consideration of strictly legal rights, courts of equity whether in voluntary obedience to or upon analogy recognize the limitations at law. For examples, if a legal title would, in ejectment, be barred by adverse possession of twenty years, courts of equity will respect the limitation. If a mortgagor has been in possession of the mortgaged premises for a like span of time without any acknowledgment of the debt, equity will presume that the mortgage indebtedness was paid. In the cases just hypothesized can the State, despite the limitations, seize by escheat the lands subject to the consummated adverse possession or acquire and collect the mortgage for the reasons that the whereabouts of the record title holder of the land and in the latter case of the mortgagee has been unknown for a specified period of the past? Can the State now lawfully acquire by escheat every heretofore outlawed debt throughout its territorial jurisdiction and demand its payment free from the immunity bestowed upon the debtor by existing statutes and adjudications? Of course, it is not to be presumed that the State if it has such power will exercise it unwisely or arbitrarily.

My attention has been attracted to the section of our statute enacted in 1906 *(R. S. 2:24-24, N. J. S. A.)* relative to the amount of interest to be recovered on "any claim

or demand which has been or shall become barred by the running of the statute of limitations, and *shall have been or shall be revived thereafter by legislative enactment* * * *" (Italics mine.) The citation is not influential because whatever may have been the contemplations of the legislature, our Court of Errors and Appeals, for example, in *Ballantine & Sons* v. *Macken*, 94 N. J. Law 502, 503, 110 Atl. Rep. 910, declared: "The rule is institutional and fundamental that a party who has become released from a demand, by the operation of the statute, is protected against its revival by a change in the limitation law, the defence of the statute being considered a vested right, which cannot be taken away by legislation without violating the inhibition of the fourteenth amendment to the federal constitution." (Perhaps more accurately, the right to acquire and possess property clause.)

It must be immediately recognized that all of our decisions with concordant import have denied the legislature the opportunity constitutionally to revive as between private individuals the debt that has been extinguished by the applicable tolling of the statute of limitations. And so along most all of the passageways of thought concerning the effect of the limitation upon the rights of the private parties involved, we soon come upon the image of the vested right.

I frankly confess my inability to comprehend the power of the State to acquire by means of escheat vested rights of cognizable ownership as distinguished from abandoned rights and interests. The very spine of the doctrines of escheat and *bona vacantia* is composed of the constitutent fact that no one exists who has ownership of the specified property.

It has been said that when you get half way into the woods, you then start coming out. And so, diverging now to pursue an excursive view of the subject, attention promptly focuses upon the proposition that although the defendant has acquired by statute a vested right and title to the intangible property to the exclusion of the unenforceable claims and demands of the former owners who have been and are now incapable of ascertainment and

identification, yet the defendant has not in such circumstances also achieved a vested right and title to the property immune from recovery by the State in the pursuit of its governmental power. To sustain that conclusion it is necessary to resolve that the statute of limitations invoked by the defendant had no current application to the ever extant and subsisting sovereign prerogative of the State, and that the tolling of the statute although effectual as hereinbefore indicated between the debtor and creditor was always subject and subordinate to the governmental right.

In the preliminary memorandum I quoted from my opinion, in *Trustees, &c., Public Schools* v. *Ott & Brewer Co.*, 135 N. J. Eq. 174, 37 A. 2d 832, the rule that a statute of limitation should not be construed to encircle the government unless it is manifest from the mischief to be reached, the express language employed or by necessary implication therefrom, that the government was in the contemplation of the legislature. I do not understand that the defendant impugns that rule or its utilization in the consideration of the present proceeding, but it projects the contention that the right of the state to recover the debt or chose in action is derivative and that where as between the debtor and creditor the debt or cause of action has become extinct, nothing remains due the creditor to be captured by the State in pursuance of its undeniable power. But a perceivable refutation of that argument is a determination that the right of recovery by the State in a proceeding in the nature of escheat is distinguishable and independent of the rights of the individuals and that such isolated prerogative right did not become extinct. The contributing point is that the State acts initially as a conservator of the abandoned property, not as a party to a contract, and that the sovereign right cannot be demolished or suppressed by the acts of the individual debtors and creditors.

It is asserted that the power to escheat is prerogative in character and is inherent in the sovereignty of the people, and that it is not a creature of the legislature. The impression is that the Escheat Act merely authenticates and regulates the exercise of the power. The historical authorities indicate that the State had no common law proprietary interest in abandoned and unclaimed personal

property. It is perhaps more accurate to identify the right of the State in such an undertaking as an exercise of the police power.

It is, however, in the course of this rationalization that the Deputy Attorney General places the possession of the alleged escheatable property in its relation to the prerogative right of the State in the equitable category of a quasi trust for the eventual surrender and delivery of the abandoned and unclaimed property to the public if and when proceedings to that end are authoritatively inaugurated by the State.

It seems entirely plausible to infer that the legislature never intended that statutes of limitations of the import and tenor here invoked should in any wise abate the pursuit by the State of its sovereign power to escheat unclaimed and abandoned property. The public policy sustaining such statutes in their application to dealings between individuals is familiar. The duration of the limitational period is definitely appurtenant to the object of the enactment. Envisioning the power to escheat tangible and intangible personal property, our legislators were undoubtedly conscious of the relatively lengthy span of time the lapse of which would reasonably generate a presumption of abandonment and failure of ownership. The interrelation of the limitational period and the statutory object has always been comprehended.

And so it is advocated by the Deputy Attorney General that the State possesses a supreme right (subject only to the characteristic impediments applicable to the exercise of the police power) to salvage for the public welfare all unclaimed and abandoned debts and cognate obligations which under the verification of proof or confession it is evident that the debtors and obligors have not in fact discharged.

In this and in my associated preliminary memorandum I have intentionally endeavored to exhibit all of the courses and processes of reasoning, *pro et contra*, to which my deliberations have been directed relative to the foremost controversial point. Perhaps I have inordinately magnified

its debatable substance and too noticeably plowed the ground for ensuing cultivation in the appellate tribunals.

Where, however, the diversities of legal argumentation concerning the constitutionality of a statute and the exercise of a prerogative power in pursuance thereof approximate an equiponderance, it is in accord with recognized policy for the court to resolve the issue in favor of validity. I shall act accordingly in the determination of the aforesaid issue.

It is consequently unnecessary to discuss the application of the statute of limitations to the respective classes of intangible property here sought to be escheated.

I shall therefore proceed to consider the additional points presented for decision. I approach them with some precursory observations. The present action is essentially a proceeding *quasi in rem* in which the defendant company has filed an answer. No other claimant has sought to enter an appearance. Indeed, there is no proof of the existence of any other claimant. The admitted lack of knowledge of the whereabouts of any claimant during the specified period and the apparent abandonment of the designated property during a like span of time constitute under the Escheat Act a confirmatory presumption that there is no claimant.

If there is any such, he is privileged to proclaim his rights during the progress of this action and within two years succeeding the entry herein of the final judgment. The defendant protests that the right of the individual to make claim is reduced to a privilege dangling insecurely from the discretion of the court. In equity, remedies are nonetheless remedies because they are discretionary, and an abuse of discretion is not reasonably to be contemplated or condoned. A claimant has no vested right in a particular remedy if a substantial remedy remains or is substituted. *Henderson* v. *Weber*, 131 N. J. Law 299, 301, 35 A. 2d 609, appeal dismissed, 332 U. S. 713, 88 L. ed. 1555, 64 S. Ct. 1270.

The defendant corporation has successfully argued before me that where the statute of limitations has tolled, the chose in action against it has been extinguished. What

then is the property right of an unknown claimant in the present case (except the 12 shares of stock) that the defendant can with any propriety and practicability volunteer to protect against alleged unconstitutional invasion? I know not, unless the existence of the sovereign power to acquire abandoned and unclaimed property is controverted. The treatment and determination of the right of a claimant in respect to the escheat are subjects not now before this court.

The defendant is certainly free to defend its own rights. In my preliminary memorandum which is inhabited by most of the pertinent and authoritative citations, I have referred to such adjudications as *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 88 L. Ed. 692, 64 S. Ct. 599, and *Security Bank* v. *California*, 263 U. S. 282, 68 L. Ed. 301, 44 S. Ct. 108, which seem to me definitely to hold that if the prerogative power of the State is exercised under the authority of the legislature and in accordance with adequate and reasonable statutory terms and requirements, and it is judicially determined in pursuance thereof that the State is lawfully entitled to the property which in the given case is comprehended by the designated class of escheatable property, the surrender and delivery of the property to the State discharges the obligation and liability of the defendant to the unknown claimants, and the legislation and the pursuit of its object are not in relation to the debtor and creditor violative of the contract and due process clauses of the constitution. To further allay the defendant's apprehensions of double liability, I point to *R. S. 2:53-23.1, N. J. S. A.*; *R. S. 2:53-31, N. J. S. A.*; *Philadelphia Electric Company* case, 352 Pa. 457, 43 A. 2d 116.

Counsel for the defendant perhaps approve of the literal text of the preceding paragraph, but they complain that our regulatory statute fails to require reasonable and adequate notice to the unknown and unascertained claimants in consequence of which the defendant would not be released from double liability. Anent that criticism I previously remarked: "Frankly, I regard the impoverished provisions pertaining to the notice to be given as an infirmity in the act, but not a mortal one." I again invite attention to the relevant comments contained in *Anderson National Bank* v. *Luckett*,

supra; Security Bank v. *California, supra; Hyman* v. *Muller*, 1 N. J. 128; 62 A. 2d 221. I was not unaware of the decision in *Wuchter* v. *Pizzutti*, 276 U. S. 13, 72 L. Ed. 446, 48 S. Ct. 259, 57 A. L. R. 1230, which seems to me to be irrelevant and inapplicable to the point here in question, for here it will be observed that the section of our Escheat Act (*R. S. 2:53-21, N. J. S. A.*), properly construed, requires the notice in its essentials to be "approved by the court," and requires it to be published "in a manner directed by the court." Procedural enactments relating to statutory judicial proceedings not uncommonly direct that notice, its contents and amplitude, shall be served or published as the court shall prescribe.

The Act affords a claimant a day in court. The enactment in itself is an announcement to persons having property within the State of the conditions under which the specified classes of property will be presumptively deemed abandoned and subject to transfer to the State. Statutory proceedings relating to the seizure of property rights by the State in the interest of the public welfare which by later resort to the courts secure to the parties affected a suitable opportunity to be heard, do not deny due process. *Anderson National Bank* v. *Luckett, supra.*

There remains for consideration the additional overture that the alleged intangible personal property does not have a situs in this State and therefore is not susceptive of seizure in this proceeding. For immediate interest the point must relevantly be reduced and confined to the consideration of the situs of abandoned intangible personal property of the particular character herein embraced in its relation to the power of this State to recover the property in circumstances evidenced by the stipulated facts.

It is acknowledged that the defendant attained its corporate origin and existence in this State and has continuously maintained its principal office in this jurisdiction at which its stockholders' meetings are regularly held and at which its registered agent may be found upon whom process is to be served in civil actions against the company. New Jersey is the defendant's habitation or domicile.

It is the general jurisdictional rule that debts, choses in action, and kindred claims are determined to be situate

where the debtor or other person resides against whom the claim exists, that is, in the jurisdiction in which such choses and claims are properly enforceable and recoverable, regardless of the locations of the debtor's physical properties and of his major business activities. *Amparo Mining Co.* v. *Fidelity Trust Co.*, 75 N. J. Eq. 555, 558, 73 Alt. Rep. 249; *Pennington* v. *Fourth National Bank*, 243 U. S. 269, 61 L. Ed. 713, 37 S. Ct. 282; *Philadelphia Electric Company* case, *supra;* 31 Harvard Law Review 905.

In an escheat proceeding such as this in which the residence, domicile, whereabouts and, indeed, existence of an owner of the *res* are unknown and the *res* is circumstantially presumed to be *bona vacantia*, the application of the general jurisdictional rule to the situs of an escheatable *res* within the class here described seems to be manifestly sensible, just, and pragmatical.

It is to be noticed that the opportunity afforded by our statute to obtain refunds from the State is available equally to non-resident and resident claimants.

Apparently the motive of the defendant in projecting this supplementary defensive argument is its imaginative apprehension that some other state may perchance some time in circumstances subsequently discovered undertake to escheat to itself the same property now to be awarded to New Jersey. The future, however wisely contemplated, remains a fairyland. The attempted solution of a preconceived legal problem of invisible characteristics is nothing more than a highly speculative and experimental exercise in which courts discreetly decline to indulge.

The United States Supreme Court in a like situation in its consideration of the New York Abandoned Property Law stated: "The problem of what another state than New York may do is not before us. That question is not passed upon." *Connecticut Mutual L. Ins. Co.* v. *Moore*, 333 U. S. 541, 548, 92 L. Ed. 641, 68 S. Ct. 682. In the same case Justice Frankfurter advocated the propriety of awaiting "the refining process of a defined contest," and until then to decline to "peck at the problem in an abstract, hypothetical way." I shall in this regard follow the footprints.

The judgment of this court will accordingly go in favor of the plaintiff.

Counsel are requested to compose and submit to me for approval a proposed final judgment declaratory of the conclusions herein expressed in their appropriate application to the circumstances of this case.

EXHIBIT B

Final Judgment

(Filed December 7, 1949.)

This cause came on to be heard on June 1, 1949, and was argued by counsel, and, upon consideration thereof,

It is, this 7th day of December, 1949,

Ordered, Adjudged and Decreed, that the following personal property be and is hereby escheated to the State of New Jersey, to wit:

a. Unpaid dividends declared upon the shares of capital stock of Standard Oil Company, aggregating $6,238.01, listed on the records of Standard Oil Company set forth in "Exhibit 1" and "Exhibit 2" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

b. Twelve shares of the common stock of Standard Oil Company, having an aggregate par value of $300.00, listed upon the records of the Company as set forth in "Exhibit 3" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

c. Unpaid wages of former employees of Standard Oil Company whose services to the company were rendered in the State of New Jersey, aggregating $31,381.08, listed upon the records of the company as set forth in "Schedule A" attached to the answer of Standard Oil Company filed in this cause, and incorporated in the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

d. Amounts withheld from wages of former employees of Standard Oil Company for the purchase of Liberty Bonds, aggregating $1210, listed upon the records of the company as set forth in "Exhibit 4" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause;

e. The amounts of unpresented commercial bank checks issued by Standard Oil Company, aggregating $8,561.62, listed upon the records of the company as set forth in "Exhibit 5" of the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause, and as set forth on page 27 of the said Stipulation of Facts;

f. Moneys withheld by Standard Oil Company on account of debenture coupons of its Twenty Year 5% Debenture issue of 1926, aggregating $3145, listed upon the records of the company as set forth in "Schedule A", attached to the answer of Standard Oil Company filed in the within cause and incorporated in the Stipulation of Facts filed in the within proceedings and made part of the record at the trial of this cause.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, that the defendant, Standard Oil Company, pay to the Treasurer of the State of New Jersey the aggregate amounts escheated as aforesaid and issue in the name of and deliver to the Treasurer of the State of New Jersey certificates for twelve (12) shares of its common stock in lieu of the certificates for said number of shares mentioned in "Exhibit 3" of the above mentioned Stipulation (which last mentioned certificates are not in the possession or under the control of the defendant), and that the Standard Oil Company make all necessary entries upon its books and records of the issuance in the name of and delivery to the Treasurer of the State of New Jersey of the aforementioned certificates, and of title to the said shares of stock in the Treasurer of the State of New Jersey.

It is further ordered, adjudged and decreed, that the fees of Emerson L. Richards, Esq., the Counsellor who has prosecuted the escheat in this Court, be fixed in the amount of $6,500, and that his expenses be fixed at $100.35 according to Paragraph 23 of said Statute, and that the fees of Irving H. Kutcher, as escheator, be fixed at $2,540.78, as provided in Paragraph 23 of said Statute, which fees and expenses are to be deducted from the moneys and personal property received by the State Treasurer as provided in such Act, and by him paid to the aforesaid Counsellor and Escheator.

WILFRED H. JAYNE,
J. S. C.

EXHIBIT C

SUPREME COURT OF NEW JERSEY, NO. A-134—SEPTEMBER TERM, 1949

STATE OF NEW JERSEY, by THEODORE D. PARSONS, Attorney General, *Plaintiff-Respondent,*

vs.

STANDARD OIL COMPANY, *Defendant-Appellant*

OPINIONS OF THE COURT

Argued May 8, 1950; decided June 27, 1950.

On appeal from the Superior Court, Chancery Division, whose opinions are reported in 2 N. J. Super. 442 and 5 N. J. Super. 460, certified on defendant's motion.

Mr. Josiah H. Stryker argued the cause for appellant. Messrs. Stryker, Tams & Horner, Attorneys.

Mr. Emerson Richards argued the cause for the State. Mr. Theodore D. Parsons, Attorney General, on the brief.

The opinion of the court was delivered by HEHER, *J.*:

The primary question here is the constitutional sufficiency of ch. 155 of the Session Laws of 1946, as amended by ch. 357 of the Session Laws of 1947 (N. J. S. A. 2:53-15,

et seq.), providing for the escheat in certain circumstances of "moneys, negotiable instruments, choses in action, interest, debts or demands due to the escheated estate, stocks, bonds, deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property and the accretions thereon," but excluding "real property or property" in *custodia legis* and "unclaimed bank deposits" made subject to escheat by ch. 199 of the Session Laws of 1945, N. J. S. A. 17; 9-18, *et seq.*

The statute escheats to the State such personal property "within this State" of one who has died, or shall die, intestate, "without heirs or known kindred, capable of inheriting the same, and without leaving a surviving spouse"; the personal property "within this State" of an "owner, beneficial owner, or person entitled" thereto who "has been or shall be and remain unknown for the period of fourteen successive years," or whose "whereabouts * * * has been or shall be and remain unknown for the period of fourteen successive years"; and personal property "wherever situate" which "has been or shall be and remain unclaimed for the period of fourteen successive years".

Jurisdiction to enter a judgment of escheat originally granted to the old Court of Chancery, is now vested in the Chancery Division of the Superior Court. It is invoked by a petition setting forth the jurisdictional requisites. The court is enjoined to "make an order requiring the defendant to answer the petition within a time therein limited." And there is provision for "such other directions" as the court may deem appropriate "for the speedy determination of the cause, the protection of the property, or for the disclosure of information pertinent to the prosecution of the cause." Provision is also made for service of a copy of the petition and order "upon the defendant in the manner provided in the said order;" and the defendant is directed, within the time limited, to answer the petition and comply with the order. Upon the filing of the defendant's answer, and his compliance with the order, it is incumbent upon the court, by a further order, to designate a time and place for the hearing of the petition. A "notice" summarizing "the order designating the time

and place of hearing, as approved by the court," shall then "be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court," provided that where the value of the personal property "of any one owner is less than $50, publication may be dispensed with if the court so directs." The notice shall direct that "any person who may claim to be entitled" to the property, or any interest therein, shall file his claim in the general form of an answer at least five days prior to the date fixed for the hearing. If no "answering pleadings" be filed within the time prescribed "by order of the court," the court may proceed upon the petition alone, and enter judgment declaring that the property "has escheated to the State." Upon the entry of a judgment of escheat, the person "in possession" shall deliver the property to the State Treasurer; and the Treasurer is enjoined to convert the property into money after "public notice" and deposit the proceeds in the State Treasury.

The judgment of escheat, by express provision, operated "as a full, absolute and unconditional release and discharge of the person having such property in possession or custody from any and all claim, demand, or liability to any person whatever other than the State Treasurer with respect to such property," and is pleadable "as an absolute bar to any action brought against such person with respect to such property by any person other than the State Treasurer."

Any person "whose property may have escheated to the State as provided" in the Act, "or any rightful heir entitled to such property by descent, may, within two years after" the entry of the judgment of escheat, apply for a reopening of the judgment, and "upon proof that" he was "without actual knowledge" of the escheat proceedings and "proof of ownership of such property or the right to possession thereof, the court may in its discretion reopen" the judgment; and "in the event" that the judgment "in part or in whole be revised or amended, the court may direct the State Treasurer to repay such part of the moneys received by the State Treasurer by reason" of the

judgment "to the party or parties in the amended" judgment "entitled to have the same, and upon the entry of such" judgment "the State Treasurer shall repay the said moneys as provided" in the judgment, less the "expenses and charges that may have accrued or been paid out by reason of the entry of the original" judgment.

The judgment under review escheated to the State the following classes of personal property found to be in the possession of the defendant corporation:

(a) Unpaid dividends declared upon shares of its capital stock, aggregating $6,238.01;

(b) Twelve shares of its common capital stock, of the aggregate par value of $300;

(c) Unpaid wages of former employees of the corporation whose services were rendered in New Jersey, aggregating $31,381.08;

(d) Moneys withheld from wages of former employees of the corporation for the purchase of Liberty Bonds, aggregating $1,210;

(e) The amounts of unpresented commercial bank checks issued by the corporation, aggregating $8,561.62; and

(f) Moneys withheld by the corporation on account of coupons of its Twenty-Year 5% Debenture issue of 1926, aggregating $3,125.

The Standard Oil Company is a domestic corporation. It was organized in 1882 under the laws of New Jersey; and it subsists under that franchise grant. It maintains its registered office in Flemington, New Jersey. It is stipulated that the stated items of property have remained unclaimed for more than fourteen successive years prior to the institution of this proceeding, and still remain unclaimed, and that the whereabouts of the owners or persons entitled to the property have remained unknown for a period of fourteen successive years prior to the commencement of this proceeding, and still remain unknown.

The Superior Court concluded that "Implicit in the

terms and provisions of the Escheat Act is the persuasion of the legislature that the retention of abandoned and unclaimed personal property for an ultimate and eventual disposition to the beneficial owner has constituted a relationship in the nature of a trust, hence the investment of jurisdiction in equity;" that while as between the debtor and creditor the debt or cause of action "has become extinct" by the lapse of time prescribed by the statute of limitations, "the right of recovery by the State in a proceeding in the nature of escheat is distinguishable and independent of the rights of the individuals and that such isolated prerogative right did not become extinct;" that the State "acts initially as a conservator of the abandoned property, not as a party to a contract, and that the sovereign right cannot be demolished or suppressed by the acts of the individual debtors and creditors;" that it was not the design of the statute of limitations "to abate the pursuit by the State of its sovereign power to escheat unclaimed and abandoned property;" and that where "the diversities of legal argumentation concerning the constitutionality of a statute and the exercise of a prerogative power in pursuance thereof approximate an equiponderance, it is in accord with recognized policy for the court to resolve the issue in favor of validity," and it is therefore "unnecessary to discuss the application of the statute of limitations to the respective classes of intangible property here sought to be escheated."

I

It is the insistence of the defendant corporation that there was error in construing the Escheat Act as applicable to choses in action barred by the statute of limitations "at the time the right of the State accrued;" and that this construction and application contravenes paragraphs 1 and 16 of Article I of the Constitution of 1844, now paragraphs 1 and 20, respectively, of Article I of the Constitution of 1947.

The argument, in brief, is that the property subject to escheat under R. S. 2:53-17, considered in relation to the definitive terms of R. S. 2:53-15, "is property to which some person is entitled and which is in the possession or custody

of some other person who is to be the defendant in the escheat proceeding;" that in the case of debts, "it is the claim or chose in action which is escheated, not the property of the debtor out of which the chose in action, if enforced, would be satisfied;" that if the unclaimed property is a debt, the State "takes the claim which the owner has * * *, subject to all defenses which the debtor is entitled to assert against the owner who has failed to claim the debt;" and that the defendant has a vested right to interpose the defense of the bar of the statute of limitations which the Legislature is not free to destroy.

It is not to be supposed that the Legislature intended to revive all outlawed debts and demands for appropriation by the State, no matter when the obligation came into being and however long the right of enforcement ceased to exist. The inclusion of "debts or demands due to the escheated estate" in the definition of the "personal property" liable to escheat, embodied in R. S. 2-53-15, is significant of a purpose to reach only choses in action whose obligation had not been extinguished, whether by satisfaction or by the bar of the statute of limitations.

There is a contrariety of view as to whether it is within the legislative competency to restore the means of enforcement of a chose in action rendered unenforceable by the efflux of time fixed by the statute of limitations. It is the settled rule in the Federal jurisdiction that the state exertion of such power is not violative of the Fourteenth Amendment, where the lapse of time has not operated to vest title to real or personal property. *Campbell* v. *Holt*, 115 U. S. 486, 6 S. Ct. 209, 29 L. Ed. 483 (1885); *Chase Securities Corporation* v. *Donaldson*, 325 U. S. 304, 65 S. Ct. 1137, 89 L. Ed. 1628 (1945). The view of the majority in the case of *Campbell* v. *Holt* was that, while one may acquire a superior and paramount title or ownership to tangible property, real or personal, by long and undisturbed possession which is proof against legislative impairment by the removal of the bar of the statute of limitations, debts are on a different footing, chiefly because the statute operates in such cases merely to bar the remedy without destroying the right in *foro conscientiae*. "Time does not pay the debt" it was said, "but time may vest the right of property.

* * * The statute of limitations does not destroy nor pay the debt.'' But this distinction between a vested right of ownership to real and tangible personal property arising out of the statute of limitations and the operation of the statute as a defense to contracts has had no recognition in this State. The principle is embedded in our jurisprudence that where a right of action has become barred under existing law, the statutory defense constitutes a vested right which is proof against legislative impairment. The protection is the same whether the debtor has satisfied the demand or has become released from the obligation by the operation of the statute of limitations.

The principle was expounded in *Ryder* v. *Wilson's Executors*, 41 N. J. L. 9 (S. Ct. 1879). There, Chief Beasley said: "The decisions of the courts, so far as my research has extended, are wholly in accord on this subject, and, with one voice, they declare that when a right of action has become barred under existing laws, the right to rely upon the statutory defence is a vested right, that cannot be rescinded or disturbed by subsequent legislation. Judge Cooley, treating of this subject, in his work on Constitutional Limitations, thus states his views: 'As to the circumstances under which a man may be said to have a vested right to a defence, it is somewhat difficult to lay down a comprehensive rule. He who has satisfied a demand, cannot have it revived against him; and he who has become released from a demand by the operation of the statute of limitations, is equally protected. In both cases, the right is gone, and to restore it, would be to create a new contract for the parties—a thing quite beyond the power of legislation.' Const. Lim. 369. And how completely the doctrine thus declared is a legitimate deduction from the authorities, will very plainly appear by a reference to the numerous cases collected by this same author, in his note on page 368.'' This doctrine was accepted by the old Court of Errors and Appeals in *Moore* v. *State*, 43 N. J. L. 203 (E. & A. 1881). Mr. Justice Dixon cited with approval cases holding that "laws never deliberately take away all remedy without an intention to destroy the right.'' It was deemed to be the settled rule that when a right of action is barred by a statute of limitations, it cannot be revived by act of

the Legislature. Mr. Justice Van Syckel, in his dissenting opinion (*Ibid.* 248), said: "A right of action is a property right which may be sold and assigned. Therefore, after the bar has attached, an act of legislation which revives the right to sue, is an act to vest property in one at the expense of another." The principle was reiterated by the Court of Errors and Appeals in *Plahn* v. *Givernaud*, 85 N. J. E. 143 (E. & A. 1915), and in *Ballantine & Sons* v. *Macken*, 94 N. J. Eq. 502 (E. & A. 1920), and by this court in *Shade* v. *Colgate*, 3 N. J. 91 (1949).

We conceive the New Jersey rule to be grounded in sound reason and principle. The statute of limitations is one of repose. As said by Mr. Justice Jackson in *Chase Securities Corporation* v. *Donaldson, supra*, such statutes "are practical and pragmatic devices to spare the courts from litigation of stale claims, and the citizen from being put to his defense after memories have faded, witnesses have died or disappeared, and evidence has been lost." While it has been the generally accepted rule that a statute of this class operates on the remedy merely and does not extinguish the right, it would seem that the destruction of the remedy reduces the "right" to a mere moral obligation sufficient only in the law to sustain a new promise without an independent consideration. Our rule perceives no essential difference between the vesting of rights to real and tangible personal property under a statute of this class and its operation as a defense to contracts. The abrogation of the remedy is equally a violation of the right, for a right without a remedy is a mere shadow. The difficulty was recognized in the *Chase Securities Corporation* case. It was found unnecessary to resolve the controversy as to the true rule. Such statutes were considered representative of "a public policy about the privilege to litigate" whose shelter do not constitute "a 'fundamental' right or what used to be called a 'natural' right of the individual," but whose pleas are "good only by legislative grace" and are "subject to a relatively large degree of legislative control," and are therefore not within the operation of the Fourteenth Amendment, which "does not make an act of state legislation void merely because it has some retrospective operation." The essence of the holding was

that "it cannot be said that lifting the bar of a statute of limitations so as to restore a remedy lost through mere lapse of time is *per se* an offense against the Fourteenth Amendment."

Under our law, the right to interpose the bar of the statute of limitations to actions in contract of this class is a vested property right which the law-making body may not abrogate or impair. It is fundamental that the denial of the remedy affects the substance of the right in the constitutional sense. *Henderson* v. *Weber*, 131 N. J. L. 299 (E. & A. 1944), appeal dismissed 332 U. S. 713, 64 S. Ct. 1270, 88 L. Ed. 1555 (1944). When the remedy is taken away, the right ceases to exist.

This conception of the bar of the statute of limitations as a vested right of defense beyond legislative impairment was not abrogated or modified by the Constitution of 1947. The pertinent provisions of the Constitution of 1844 were reenacted without substantial change; and it is to be presumed that their retention constituted the adoption of the quality and meaning accorded to them by the long-settled judicial construction. *State* v. *DeLorenzo*, 81 N. J. L. 613 (E. & A. 1911); *Commonwealth* v. *Reeder*, 171 Pa. 505, 33 Atl. 67 (1895). Compare *Cook* v. *Bennett Gravel Co.*, 90 N. J. L. 9 (S. Ct. 1917); *Ross* v. *Miller*, 115 N. J. L. 61 (S. Ct. 1935); *State* v. *Moresh*, 122 N. J. L. 77 (E. & A. 1939).

There is no substance to the contention that under the Constitution of 1947, the escheat act "limits the operation" of the statute of limitations, "even to the point of divesting" an accrued right of defense under its provisions. The argument is that these statutes, "having lost all force and vitality upon the abrogation of the Constitution of 1844" by the adoption of the Constitution of 1947, "again came into full force and effect simultaneously by virtue of their wholesale reenactment of Paragraph 3 of the new Constitution," and so they must be "read together and reconciled," and therefore the escheat act is not "subject in any manner to the statute of limitations." But the mere continuance of these statutes by constitutional fiat is not indicative of a purpose to abrogate vested rights to defenses permissible under the statute of limitations. There

is no suggestion of a legislative design by the original enactment, to annul the bar of the statute of limitations and revive in favor of the State a debt or demand that *inter partes* had lost its vitality by the operation of that statute. The Constitution of 1947 does not give the statute a radically different quality and meaning.

In modern usage "escheat" signifies the falling of property to the sovereign for want of an owner; and this category embraces not only property which has no other owner, but also property whose owner or whose owner's whereabouts is unknown. Under the common law of England escheats came to be classified as "another branch of the king's ordinary revenue." Blackstone's Comm. 302. What was originally an incident of tenure is now an incident of sovereignty. *Matthews* v. *Ward*, 10 Gill. & J. (Md.) 443, 451: *In re Melrose Avenue*, 234 N. Y. 48, 136 N. E. 235 (1922). The doctrine of escheat, at the early common law operative only upon that which was the subject of tenure, since it related to the reversionary right of the lord to take for want of a tenant, was eventually extended to include personal property, tangible and intangible. The principle was that the right to take that which belonged to no one appertained to the Crown, as *jure regalia*. *Dyke* v. *Walford*, 5 Moo. P. C. 434, 13 Eng. Rep. Full Reprint 557. The Crown steps in to take the property because it is vacant. Property described as *bona vacantia* is taken or assumed by the State, as its own. Property of this class falls "to the Crown as a matter of right in the exercise of its sovereign power." Re Barnett's Trusts (1902), 1 Ch. (Eng.) 847, 3 B. R. C. 198. "In personal estates, which are allodial by law, the King is last heir where no kin." Lord Mansfield in *Burgess* v. *Wheate*, 1 W. Bl. 123, 96 Eng. Rep. Full Reprint 67, 10 Eng. Rul. Cas. 614 (1884). Property escheats to the State as part of the common ownership. *Hamilton* v. *Brown*, 161 U. S. 256, 16 S. Ct. 585, 40 L. Ed. 691 (1896); *Sands* v. *Lynham*, 27 Grat. (Va.) (1876), 291, 295. "With tenure abolished, succession is by like right whether the subject of escheat is personal or real." *In re Melrose Avenue*, *supra*. The policy of the State's superior right under the doctrine of *bona vacantia* was described by Blackstone as the avoidance of "that strife and contention, which the

mere title of occupancy is apt to create and continue, and to provide for the support of public authority in a manner the least burthensome to individuals." Blackstone's Comm. 298. The State has the same dominion over intangible property that it has over tangible property. *Security Savings Bank* v. *California*, 263 U. S. 282, 44 S. Ct. 108, 68 L. Ed. 301 (1923); *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 64 S. Ct. 599, 88 L. Ed. 692 (1944); *Connecticut Mutual Life Insurance Co.* v. *Moore*, 333 U. S. 541, 68 S. Ct. 682, 92 L. Ed. 863 (1947); *Roth* v. *Delano*, U. S. , S. Ct. , 94 L. Ed. (1949) (338 U. S. 226).

It is a corollary of the foregoing principles that where all remedy upon the intangibles has been barred by the statute of limitations, there is no property to escheat under the act now before us. The State's right is purely derivative; it takes only the interest of the unknown or absentee owner. If the remedy has been extinguished by the statute of limitations, the State is under like incapacity. The State takes only the creditor's right; it cannot create or revive an obligation that had no existence or had become extinct. *The King* v. *Morrall*, 6 Price 24, 146 Eng. Rep. Full Reprint, 730 (Exchequer 1818). The principle was applied in *Lambert* v. *Taylor*, 4 B. C. 138, 107 Eng. Rep. Full Reprint, 1010 (K. B. 1825). Here, defendant invokes the bar of the statute of limitations; and where that defense is sufficient in law, there is no property subject to escheat.

The subject matter of categories (c), (e), and (f) do not constitute property subject to escheat.

II

Our next inquiry is as to whether the unpaid dividends declared on the common capital stock of the defendant corporation constitute rights of property which have not been rendered unenforceable by the operation of the statute of limitations.

The contention is that when a declared dividend becomes payable to the relation of debtor and creditor comes into being, and the "debt" is recoverable "in *assumpsit* which is an action in the nature of an action on the case," a remedy barred under R. S. 2:24-1 after the lapse of six years from the accrual of the cause of action.

Prior to 1918 the total amount of the declared dividends was deposited by the corporation in the National City Bank of New York, in a dividend disbursing account in the name of the corporation. Individual checks for the dividends were drawn by the corporation against this account to the order of the stockholders, and mailed to the stockholders, at the addresses shown on the records of the company, before the date fixed for the payment of the dividend. The unpaid dividends in this category aggregate but $85.50. The deposit thus made with the National City Bank was charged on defendant's books to the account of "Dividends Paid," to "record the reduction in surplus effected by the dividend, and credited to 'Accounts Payable.'" Eventually, the aggregate of the amounts in the "Dividends Paid" account found its way into the surplus account. The sum of the uncashed dividend checks was eventually deposited in a general bank account of the defendant by a check drawn by the Treasurer's Department. By appropriate bookkeeping entries, the unclaimed dividends were classified as income. These unclaimed dividends "were closed out in 1908 and 1938 by a transfer to 'Earnings'."

The corporation honored all claims for dividends declared prior to 1918 "made more than 6 years after such dividends became payable," in one instance as late as 1948, "as a matter of Company policy for the purpose of maintaining amicable relations with stockholders without any consideration of the question whether or not the claims therefor were barred by the statute of limitations."

In 1918, the Guaranty Trust Company of New York was appointed transfer agent of the defendant corporation, and thereafter declared dividends were paid by the check of the Trust Company drawn upon funds deposited by defendant for that purpose. These deposits were "mingled with the general funds of the Trust Company in the same manner as any general commercial deposit would be, and always remained so mingled." Again, the amounts deposited were charged by the corporation on its general ledger to the account of "Dividends Paid", and credited to "Accounts Payable." The deposits were ultimately "recorded in the surplus accounts." The defendant "has not recalled from the Trust Company the amounts of

dividend checks which have remained unpaid." The undelivered checks amount to $1,711.13, and the checks presumably delivered but not presented for payment aggregate $4,445.65, or a total of $6,156.78. The Trust Company also honored demands for dividends made more than six years after the date fixed for payment, "as a matter of Company policy" for the maintenance of "amicable relations with stockholders," without regard to the Statute of Limitations.

The defendant corporation cites *King* v. *Paterson and Hudson R. R. Co.*, 29 N. J. L. 82 (S. Ct. 1860), affirmed *Ibid.* 504 (E. & A., 1861) and *Jackson's Administrators* v. *Newark Plankroad Co.*, 31 N. J. L. 277 (S. Ct. 1865) for the proposition that the relation between a corporation and its stockholders in respect of a dividend declared and payable is that of debtor and creditor; that an action in *assumpsit* will lie for the recovery of the dividend, and the action of *assumpsit* is an action on the case directly within the limitation provisions of R. S. 2:24-1.

In the *King* case the holding of the old Court of Errors and Appeals was that after a dividend is declared, "all community of interest" in relation to the dividend ceases, and the stockholder has "a separate and independent right" to the dividend, enforceable by an action at law against the corporation after demand of payment. But Chancellor Green likened such dividends to bank deposits; and he classified them as trusts "in a limited sense." He regarded the corporation "as a trustee of the dividend unpaid to the stockholder," even though another was entrusted with the fund for the purpose of payment. He cited the *English* case of *Le Roy* v. *The Globe Insurance Co.*, 2 Edw. Ch. R. 657 (1936). There, it was held that payment of dividends withheld by a solvent corporation may be enforced at the instance of the stockholders by *mandamus*, by action at law on behalf of the individual stockholders for the payment of the money, or by bill in equity to obtain possession of the money upon the footing of its being a trust fund. The Vice Chancellor declared that where there had been an "express appropriation and setting apart" from the company's earnings of the moneys

for the payment of the declared dividends, thereby distinguishing the money from "the general mass of the company's funds," there was conferred upon the amount thus separated "the character of a trust fund which could not afterwards be diverted to other objects." He continued: "It makes no difference, in my judgment, that the money was not told out and specifically set apart in the bank to meet these checks or that a separate fund was not created for the purpose or that the money intended to meet them still formed a part of the general mass standing to the credit of the company on the books of the bank: for this court can, nevertheless, lay hold of the mass and separate so much as may be necessary to accomplish what was intended and which accident alone prevented at the time." This on the hypothesis that the matter was "no longer executory in the view of the parties;" and it was the function of equity to perform it so far as it remained unexecuted. For the fulfillment of the intention, he said, a court of equity will consider the moneys thus set apart "as a trust fund to which the stockholders had acquired vested rights—not in their corporate capacity, but as individuals to whom the money legally and equitably belonged distinct from their other interests in the funds and effects of the company." The case of *Jackson's Administrators* v. *Newark Plankroad Co.* merely held that an action in *assumpsit* would lie against an incorporated company for breach of the contract which the law implied from the relationship of the parties that an equal distribution of dividends will be made among the stockholders. There is authority for the proposition *e. g. Kane* v. *Bloodgood*, 7 Johns. C. R. 90, cited by Chancellor Green in the *King* case, that an action at law for money had and received would lie by a stockholder against a corporation for the recovery of a dividend, and that it was not such an express trust as would take the case out of the Statute of Limitations.

The trust fund theory is a more realistic concept of the substance of the transaction here and the relationship between the parties than that of a mere debt within the operation of the statute of limitations. There was a segregation from the Company's funds of the moneys to be

devoted to the payment of the dividends. The mere declaration of a dividend by a corporation gives rise to a debt as against it in favor of the individual stockholders; but where "the fund for its payment has been actually set apart and distinguished from the general mass of the company's funds, the fund so set apart becomes a trust fund for the payment of the dividend, which cannot be reached by the general creditors of the corporation, and when it becomes a trust fund for the payment of dividends it cannot be diverted and used for any other purpose. • • • There seems to be a fundamental distinction between a fund set apart for the payment of a dividend and a fund set apart for the payment of an ordinary indebtedness." *Re Interborough Consolidated Corporation*, 288 Fed. 334 (1923), 32 A. L. R. 932; certiorari denied, *Porges* v. *Sheffield*, 262 U. S. 752, 43 S. Ct. 700, 67 L. Ed. 1215 (1923). Judge Rogers invoked the principle of the English case of *Le Roy* v. *The Globe Insurance Co.*, cited *supra*, among others. He also adverted to the doctrine that where money is placed by one person in the hands of another for payment to a third person, a trust arises in favor of the latter for which the recipient may be held accountable either at law for money had and received, or in equity as a trustee, for a breach of trust. Reference was also had to the principle that where a charge or claim in the nature of a lien is placed upon property by the owner, a court of equity will establish and enforce it, "not only against the party who stipulated to give it, but also against third persons who are either volunteers, or take notice."

For the rule that segregation of funds to meet a declared dividend constitutes the corporation a trustee for the stockholders, see also *Jermain* v. *Lake Shore & Michigan So. Ry.*, 91 N. Y. 483; *Hopper* v. *Sage*, 112 N. Y. 534, 20 N. E. 350 (1889); *In re Sutherland*, 23 Fed. (2d) 595 (1928); *People* v. *The Bank of Dansville*, 39 Hun 187 (1886); *Lowne* v. *American Fire Insurance Co.*, 6 Paige 482 (1837); *Roehm* v. *Stetson*, 50 D. & C. (Pa.) 98, 104 (1943). Where there has been "an actual setting apart • • • of a part of the surplus funds" for the payment of a dividend, the dividend "became the property of the stockholders dis-

tributively." *Smith* v. *Cotting*, 231 Mass. 42, 120 N. E. 177 (1918).

The principle is rooted in our jurisprudence. In *Breslin* v. *Fries-Breslin Co.*, 70 N. J. L. 274, 287 (E. & A. 1904), the old Court of Errors and Appeals ruled that after segregation of the moneys to be devoted to the payment of a dividend, "the corporation, as such, has no property interest in the moneys thus set apart;" the directors "are trustees for the several stockholders, charged with the duty of properly apportioning among them the moneys thus set apart for their use." The trust relationship inheres in the corporate association. Mr. Justice Pitney there cited with approval this statement of the general rule: "The ideal body is, in theory of law, the principal and the board of directors are the managing agents; but, in theory of equity, the body of stockholders are the beneficiaries in a trust and the directors are their trustees."

The liability of the corporation to its stockholders in such circumstances has been likened to that of a bank to its depositors. *Armant* v. *New Orleans & C. R. Co.*, 41 La. Ann. 1020, 7 So. 35 (1889); *Larwell* v. *Burk*, 19 Ohio Cir. Ct. 513; *Yeaman* v. *Galveston City Co.*, 106 Tex. 389, 167 S. W. 710 (1914).

It results that the limitations of R. S. 2:24-1 are not operative to extinguish the stockholders' right to the dividends in question.

And the moneys withheld from the wages of employees for the purchase of Liberty Bonds, Class (d), are in the same category.

III

It is urged that, for certain reasons presently to be stated, the judgment herein does not serve to absolve the defendant corporation from liability for the payment of claims not barred by the statute of limitations, because (a) the statute under review deprives "the claimants whose claims" are not within the Statute of Limitations of their remedy for the enforcement of their contracts and provides no adequate substitute remedy, and (b) the notice of the escheat proceeding prescribed by the statute is entirely inadequate, all in violation of the contract clauses

of Article I, Section X of the Federal Constitution and Article IV, Section VII, paragraph 3 of the State Constitution of 1844, now embedded in the same article, section and paragraph of the Constitution of 1947, and the due process clauses of the Fourteenth Amendment of the Federal Constitution and Article I of the Constitution of 1844, carried into Article I, Section I of the Constitution of 1947.

As to (a), it is said that the "only substitute" remedy for the enforcement of the shareholders' contract "is the opportunity to appear, if per chance they have notice of the proceeding, and assert their claim in the escheat proceeding," and to invoke what is deemed a discretionary power to reopen the judgment within two years of the date of its entry, if there be proof of ownership of the property or the right of possession and want of actual knowledge of the escheat proceeding. It is pointed out that in this event the shareholder would not receive his stock, but only the proceeds of sale less the expenses incident to the entry of the original judgment. This, it is insisted, lessens the efficacy of the means for the enforcement of the shareholders' contract and impairs the substance and obligation of the contract, and therefore the defendant "is not protected from the claims of the stockholders."

As to (b), it is contended that the statutory procedure does not afford the stockholder "reasonable notice of the pendency of the proceeding and a reasonable opportunity to present his claim." More specifically, it is said that "the contents of the notice as prescribed by the statute" are "entirely inadequate to indicate to any interested party that the proceeding may affect his rights," and also that the "period of publication of the notice" is inadequate. The statute (R. S. 2:53-21) provides that the notice shall contain a summary of the order designating the time and place of hearing, as approved by the court, and shall be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court; and it is urged that the order designating the time and place of hearing is deficient in its failure to specify the character of the property of which escheat is sought and the names

and addresses of the last known owners, and the "basis of the alleged escheat," and therefore a "summary of the notice would be no notice whatsoever to anyone." The order provides for a more specific notice directed to the last known owners at their respective last known addresses stating the nature and character of the property made the subject of the escheat proceeding; but it is maintained that the sufficiency of the statute as to notice is determined by its requirements, not by the notice actually given. The principle of the case of *Wuchter* v. *Pizzutti*, 276 U. S. 13, 48 S. Ct. 259, 72 L. Ed. 446 (1928) is invoked. It has no application here.

Procedural due process involving property rights takes into account the purposes of the procedure and its effect upon the interests concerns, and all the other circumstances bearing upon the appropriateness of the proceeding to the nature of the case. The fundamental requisite of due process is an opportunity to be heard on such notice as is in keeping with the character of the proceeding and adequate to safeguard the right entitled to protection. *Dohany* v. *Rogers*, 281 U. S. 362, 50 S. Ct. 299, 74 L. Ed. 904 (1930), 68 A. L. R. 434. The proceeding here is *in personam* so far as the defendant corporation is concerned; and *quasi in rem* as regards the unknown owners or owners whose whereabouts are unknown. Seizure of the property was effected by personal service of process upon the defendant corporation. *Security Savings Bank* v. *California*, *supra*. And since personal service of process upon the holder constituted a seizure of the *res*, it is "deemed to supplement the publication as an independent notice, in itself," to the unknown owners of the abandoned property "of the seizure and of their opportunity given by the statute to appear and assert their claims against the state." *Anderson National Bank* v. *Luckett*, *supra*. There the statute provided for the posting of notice of the proceeding on the court house door; and the holding was that "this, in conjunction with the notice provided by the statute itself and by the taking of possession of the bank balances by the state, is sufficient notice to the depositors to satisfy all requirements of due process." Chief Justice Stone said: "The statute itself

is notice to all depositors of banks within the state, of the conditions on which the balances of inactive accounts will be deemed presumptively abandoned, and their surrender to the state compelled. All persons having property located within a state and subject to its dominion must take note of its statutes affecting the control or disposition of such property and of the procedure which they set up for those purposes." As we have seen, the State has the same dominion over intangible property that it has over tangible property. *Security Savings Bank* v. *California, supra.* Procedure of the same character, initiated by the seizure of the *res*, has been sustained as providing adequate notice to absentee owners in escheat actions. *Hamilton* v. *Brown*, 161 U. S. 256, 16 S. Ct. 585, 40 L. Ed. 691 (1896); *Christianson* v. *King*, 239 U. S. 356, 36 S. Ct. 114, 60 L. Ed. 327 (1915).

Here, as in the case of *Security Savings Bank* v. *California*, the statute is not self-executing. The lapse of the prescribed time does not work an immediate escheat. The turnover of the *res* comes only after a judicial determination of the existence of the statutory conditions. There must be proof that the owner is and has remained unknown for fourteen successive years, or that the owner's whereabouts is and has remained unknown for a like period, or that the *res* is and has remained unclaimed for the same period. A valid claim to the property made prior to the entry of the judgment of escheat prevents its transfer to the State. The notice of the proceeding prescribed by the statute is sufficient to meet the demands of due process. It is all that is practicable in the circumstances. As stated, it is provided that the notice shall contain a summary of the order fixing the time and place of hearing, as approved by the court, and shall be published once a week for three successive weeks in a newspaper of general circulation designated by the court. Shorter periods have been deemed sufficient where land was involved. *Anderson National Bank* v. *Luckett, supra.* And it is implicit in the statute that the notice shall identify the property of which escheat is sought and the last known owner. That is of the very nature of the notice thus prescribed. There could not be "notice" within the view of the statute without identifica-

tion of the subject matter of the proceeding. It does not matter whether the state receives the *res* merely as a depositary or takes it as an escheat. *Security Savings Bank* v. *California, supra.* The statute provides that the judgment entered thereunder shall operate as an absolute and unconditional release and discharge of the holder of the *res* from liability to any person other than the State Treasurer. R. S. 2:53-23.1.

The circumstances did not permit of a more effective notice. Moreover, the judgment did not terminate the right to rebut the presumption of abandonment and claim the *res*. This right was reserved to the owner in absolute and unconditional terms for a period of two years after entry of the judgment, exercisable by a motion to reopen the judgment. R. S. 2:53-31. In the performance of this function, the court is not vested with arbitrary discretion. The exercise of the statutory discretion implies conscientious judgment, not arbitrary action. The statutory criteria of ownership or right of possession and a failure of actual notice of the escheat proceeding control the exercise of power. When these conditions are met, the court must give judgment for the claimant. In the classic terms of Lord Mansfield, judicial discretion "means sound discretion guided by law. It must be governed by rule, not by humour: it must not be arbitrary, vague, and fanciful; but legal and regular." *Rex* v. *Wilkes*, 4 Burr. 2527, 2539, 98 Eng. Rep. Full Reprint 327 (1770). The statute provides no other standard of judicial action. It has in view a more legal discretion—"a discretion to be exercised in discerning the course prescribed by law; and, when that is discerned, it is the duty of the court to follow it." *Osborn* v. *The Bank of the United States*, 9 Wheaten 738, 866, 6 L. Ed. 204 (1824).

In the case of persons missing or unknown, the practicalities and peculiarities of the case are to be regarded in determining the sufficiency of the notice of hearing. In cases of this class, it is not reasonably possible or practicable to give more adequate warning than that afforded by publication. An "indirect and even a probably futile means of notification is all that the situation permits and creates no constitutional bar to a final decree foreclosing their

rights." *Mullane* v. *Central Hanover B. & T. Co.*, —— U. S. ——, S. Ct. ——, 94 L. Ed. 578 (1950). There, a statute permitting trust companies to pool small trust estates into one common fund for investment and administration provided for the publication of notice of a proceeding for the settlement of the trustee's account "addressed generally without naming them to all parties interested" in the common trust fund. The notice required, and the only one given, was by newspaper publication setting forth merely the name and address of the trust company, the name and the date of establishment of the common trust fund, and a list of all participating estates, trusts or funds. It was held that this notice was sufficient as to beneficiaries "whose interests or whereabouts could not with due diligence be ascertained." Mr. Justice Jackson said: "As to them the statutory notice is sufficient. However great the odds that publication will never reach the eyes of such unknown parties, it is not in the typical case much more likely to fail than any of the choices open to legislators endeavoring to prescribe the best notice practicable." Publication was held insufficient as to known present beneficiaries of known place of residence. In this regard the act was found to be incompatible with the requirements of the Fourteenth Amendment.

Where the procedure is appropriate, neither the due process clause nor any right of the defendant corporation under the contract clause is violated by a law requiring it to deliver to the State property which has long remained unclaimed and presumably has been abandoned. The prescribed notice answers the demands of due process. No other service is feasible in the circumstances. In the nature of things the owners of the property can be treated as persons unknown.

The defendant corporation's capital stock escheated by the judgment were all shares on which dividends had remained unclaimed for more than fourteen successive years immediately prior to the institution of the proceeding. There is in this situation a presumption of abandonment. A different case would be presented if no dividends had been declared during the statutory period, and there

was no showing that the owner's whereabouts was unknown for the statutory period.

It is contended also that, for want of a situs in New Jersey, the subject choses in action are not escheated here, and the judgment is *coram non judice*. The defendant corporation is a creature of and is therefore domiciled and resident in New Jersey. *State* v. *Garford Trucking, Inc.*, 4 N. J. 346 (1950). The owners of the escheated obligations are missing or unknown. The property is presumptively abandoned. The sovereignty in which the corporation lives and has its being has dominion over its debtor obligations, through its control of the corporation. *Security Savings Bank* v. *California, supra*; *Anderson National Bank* v. *Luckett, supra*. See, also, *State Tax Commission* v. *Aldrich*, 316 U. S. 174, 62 S. Ct. 1008, 86 L. Ed. 1358 (1942), 139 A. L. R. 1436; *Northwest Air Lines* v. *Minnesota*, 322 U. S. 292, 64 S. Ct. 950, 88 L. Ed. 1283 (1944), 153 A. L. R. 245; *Connecticut Mutual Life Insurance Co.* v. *Moore, supra*. The corporation was not absolved of its obligation by the creation of the trust fund with the New York bank for the payment of the declared dividends.

The statute ordains that where the value of the property made subject to escheat is less than $50, publication of any notice may be dispensed with if the court so orders; and the order here provides that in such cases "the advertisement need not contain the name nor address of such person or corporation." The judgment of escheat included this property; and to this extent it does not satisfy the demands of procedural due process. The subject matter was not sufficiently identified to constitute adequate notice. Under the statute the State does not proceed administratively to take the property into its protective custody, subject to eventual escheat, as in *Provident Institution for Savings* v. *Malone*, 221 U. S. 660, 55 L. Ed. 899 (1911) and *Connecticut Mutual Life Insurance Co.* v. *Moore, supra*, but rather to subject it to escheat through judicial process, as in *Security Savings Bank* v. *California, supra;* and so there must be compliance with the requirements of due process. *Vide Anderson National Bank* v. *Luckett, supra; Connecticut Mutual Life Insurance Co.* v. *Moore, supra; Roth* v.

Delano, supra. But the invalidity of this provision does not affect the remainder of the act. R. S. 2:53-32.

The allowances to counsel and the escheator are subject to revision by the Superior Court in keeping with the decree as herein modified.

The judgment is accordingly modified, and, as so modified, affirmed.

VANDERBILT, *C. J.* (dissenting):

I am in accord with the principles and conclusions expressed in Parts I and II of the majority opinion holding that the State may not take by escheat the property possessed by the defendant when the Statute of Limitations has barred the owner's right to recover, and that the State may take by escheat that property which the defendant holds in trust, including its stock and unpaid dividends thereon, but not with that portion of Part III of the opinion dealing with the adequacy of the notice prescribed by the Escheat Act and the status of the defendant to resist the escheat. I am therefore constrained to dissent. To my mind the Escheat Act, R. S. 2:53-13, *et. seq.*, is fatally defective for lack of the procedural safeguards necessary to satisfy the constitutional requirement of "due process."

The validity of the statute and the proceedings thereunder depend upon the adequacy of the notice prescribed by the statute and not by the notice that may in fact have been given in the particular instance, *Wuchter* v. *Pizzutti*, 276 U. S. 13, 72 L. Ed. 446, 45 Sup. Ct. 259 (1928); *Weiner* v. *Wittman*, 129 N. J. L. 35 (Sup. Ct. 1942). The notice to be given to the owners of the property of which escheat is sought is provided by R. S. 2:53-21. It does not require that the names and addresses of the last known owners be given, nor that the character of the property be specified, nor that the basis of escheat be set forth. This notice, moreover need only be published once a week for three successive weeks in a single newspaper, and the owner to whom it is supposedly directed must file his claim five days before the time fixed for the hearing. Such notice is wholly inadequate when it is borne in mind that the very purpose of the act is to extinguish the rights of persons whose names

or whereabouts are unknown. Neither the information contained in the notice, nor the publication of it, nor the time allowed to file a claim are reasonably calculated to inform the owners of the property of the impending proceedings and to give them an opportunity to appear and protect their interests. The notice required by the statute is, in effect, no notice at all to anyone.

Nor do I consider the inadequacy of the notice required by the statute any less important because of the fact that the owners of the escheated property may apply to reopen the proceedings at any time within two years and "upon proof that they were without actual knowledge of such escheat proceedings, and of proof of ownership of such property or the right to possession thereof, the court *may in its discretion* reopen the decree" and order the State Treasurer to repay the moneys received by the State, less expenses and costs, R. S. 2:53,31. Not only does the judgment in the escheat proceeding start the running of the two year period after which the right of the owner of the property is automatically and forever barred, but the right to recover during the two year period is not absolute, but within the discretion of the court. In the majority opinion it is stated that the court must enter judgment for the claimant if "the statutory criteria of ownership or right of possession and a failure of actual notice of the escheat proceeding" are proven; that the statute contemplates a "mere legal discretion". With this interpretation I do not agree. If the claimant to the escheated property is entitled to recover upon proof of these two conditions, then the court is not exercising its discretion but following the legislative mandate. In that event the words of the statute "may in its discretion" are of no meaning or effect, and it is not to be considered that the Legislature employed them fruitlessly.

I would reverse the judgment below in its entirety.

Mr. Justice Case has authorized me to state that he joins in this dissent.

EXHIBIT D

SUPREME COURT OF NEW JERSEY

APPEAL DOCKET No. 445

STATE OF NEW JERSEY, by THEODORE D. PARSONS, Attorney General, Plaintiff-Respondent,

vs.

STANDARD OIL COMPANY, Defendant-Appellant

Civil Action on Appeal. Mandate on Modification

This cause having been duly argued before this Court by Mr. Josiah Stryker, counsel for the appellant and Mr. Emerson Richards, Deputy Attorney General, counsel for the respondent, and the Court having considered the same,

It is hereupon ordered and adjudged that the judgment of the said Superior Court—Chancery Division be and the same hereby is modified; and it is further ordered that this mandate shall issue ten days hereafter, unless an application for rehearing shall have been granted or is pending, or unless otherwise ordered by this Court, and that the record be remitted to the Superior Court—Chancery Division to be there proceeded with in accordance with the rules and practice relating to that court, consistent with the opinion of this Court.

WITNESS the Honorable Arthur T. Vanderbilt, Chief Justice, at Trenton on the 27th day of June, 1950.

CHARLES K. BARTON,
Clerk of the Supreme Court.

Filed Jun. 27 1950. CHARLES K. BARTON, *Clerk.*

A true copy, CHARLES K. BARTON, *Clerk.*

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Supreme Court of the United States

No. 384.

COURT TERM, 1950.

STANDARD OIL COMPANY,

Appellant,

vs.

THE STATE OF NEW JERSEY, by THEODORE D. PARSONS, Attorney General of the State of New Jersey,

Appellee.

ON PETITION FOR APPEAL FROM THE SUPREME COURT OF NEW JERSEY TO THE SUPREME COURT OF THE UNITED STATES.

BRIEF IN OPPOSITION TO APPELLEE'S MOTION TO DISMISS OR AFFIRM.

JOSIAH STRYKER,
Attorney of and Counsel for Appellant.

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Supreme Court of the United States

No. 384.

Court Term, 1950.

Standard Oil Company,

Appellant,

vs.

The State of New Jersey, by Theodore D. Parsons, Attorney General of the State of New Jersey,

Appellee.

ON PETITION FOR APPEAL FROM THE SUPREME COURT OF NEW JERSEY TO THE SUPREME COURT OF THE UNITED STATES.

BRIEF IN OPPOSITION TO APPELLEE'S MOTION TO DISMISS OR AFFIRM.

This memorandum is filed in answer to appellee's statement in opposition to appellant's statement of jurisdiction and motion to dismiss or affirm, and is intended to supplement appellant's statement in support of jurisdiction.

The jurisdiction of this Court is based upon appellant's claim that the escheat statute of New Jersey (Chapter 155 of the Session Laws of 1946, as amended by Chapter 357 of the Session Laws of 1947, which statute is copied in appellant's statement in support of jurisdiction) and the judgment entered under such statute violate the due process of law provision of the Fourteenth Amendment and paragraph 1, section 10, of Article I of the Constitution of the United States in the following respects:

(a) The notice to the claimants provided by such statute as well as the notice actually given was equivalent to no notice at all.

(b) The claims escheated by the judgment had no situs in New Jersey for the purpose of escheat and the New Jersey Court was, therefore, without jurisdiction.

(c) Each of the claims escheated by the judgment was based upon a contract. Prior to the judgment, each of the claimants had a remedy against the defendant under his contract. The judgment deprives the claimants of this remedy without substituting therefor any adequate remedy.

All of the contentions above mentioned were raised in the Answer of the Standard Oil Company in the above cause, were fully argued before the trial court and before the Supreme Court of New Jersey on appeal, and the decision of said court sustained the statute as not in violation of either of the above mentioned provisions of the Constitution of the United States except as stated in its opinion concerning the failure to give any notice to claimants with claims under $50.

It is well settled that if all or any of the above contentions are sustained, the appellant is not protected by the judgment from the subsequent assertion by the claimants of their claims against it. To compel the appellant to transfer the stock in question or to pay the claims against it to the State, without protecting it from subsequent liability with respect to the claimants, would deprive the appellant of its property without due process of law. *Security Savings Bank* vs. *State of California* (1923), 263 U. S. 282, 286, 287; *Anderson National Bank* vs. *Luckett* (1944), 321 U. S. 233, 242, 243.

The Common Law Power of the State of New Jersey to Escheat Property Existed Only in the Case of Property Which Had no Other Owner, not of Property the Owner of Which Was Unknown.

Although it was claimed by the State that it had a common law power to escheat the choses in action in question, the decision of the Supreme Court did not sustain this claim. The Court cited *Dyke* vs. *Walford* (Privy Coun.—1846), 5 Moo. P. C. 434, 13 Eng. Rep., Full Reprint 557, as establishing the common law right under the doctrine of *bona vacantia* to take property which had no owner. See: *State* vs. *Standard Oil Company* (Sup. Ct.—1950), 5 N. J. 297. The Court stated that under the Act of 1946 "the State's right is purely derivative; it takes only the interest of the unknown or absentee owner."

It was held that under the Constitution of New Jersey a claim which was barred by the statute of limitations at the time the State's right accrued under the escheat statute could not lawfully be escheated.

Although it has been stated in some decisions in jurisdictions other than New Jersey that the right of the State to appropriate property, the owner of which is unknown, is a common law right based on the English doctrine of *bona vacantia*, this view is not sustained by the English cases.

The case of *Dyke* v. *Walford* (Privy Coun.—1846), 5 Moo. P. C. 434, 13 Eng. Rep., Full Reprint 557, reviews the history and considers the effect of the doctrine of *bona vacantia*. In the course of the argument of this case Mr. Parker, who was of counsel, said:

> ". . . the rule at common law, is, that property must belong to somebody; and where there is no other

owner, not where the owner is unknown, that is the distinction, it is the property of the Crown."

The court adopted this statement of Mr. Parker, stating with reference to *bona vacantia* at page 580 of the Reprint report:

"... it is the right of the Crown to 'bona vacantia;' to property which has no other owner."

In re Wells (Chancery Div., 1933) 1 Ch. 29; *Dyke* vs. *Walford* was cited. Lord Hanworth said at page 44, speaking of *bona vacantia;*

"... it is the right of the Crown to *'bona vacantia'*; to property which has no other owner."

In the same case Lawrence, L. J., said:

"The right of the Crown to succeed to the personal estate vested in a company at the time of its dissolution does not in my opinion differ in substance from the right of the Crown to succeed to the personal estate of a person dying intestate without next of kin. In both cases the title of the Crown arises because the property has no other owner; such property must not, of course, be confused with property the owner of which is unknown."

Romer, L. J., in the same case, speaking of *Dyke* vs. *Walford,* said at page 56:

"The Privy Council in fact accepted the argument put forward by Mr. Parker in that case, that the rule at common law is that property must belong to somebody, and where there is no other owner, not where the owner is unknown, that is the distinction, it is the property of the Crown. The distinction referred to by Mr. Parker is, of course, that on which such cases as *Armory* v. *Delamirie* are based. But

this right of the Crown to property that has no other owner has been frequently stated by writers of great authority."

See *Armory* v. *Delamirie* (1722), 1 Strange 505, 1 Sm. Lead. Cases 679, 93 English Reports, Full Reprint, 664. See, also: Bona Vacantia by F. A. Enever, at page 13; *Illinois Bell Telephone Co.* vs. *Slattery* (C. C. A. 7th, 1939), 102 Fed. (2d) 58.

Unless the Act of 1946 is valid and lawfully authorizes the State to escheat the property covered by the judgment, the State has no such power and the judgment takes the property of the appellant without due process of law.

The Notice to the Claimants as Provided by the Statute and the Notice Actually Given Was so Inadequate as to Amount to no Notice.

We will not here repeat appellant's argument on this question which is contained in appellant's statement in support of jurisdiction, except to comment on the cases cited in appellee's brief and to somewhat amplify the argument.

Appellee cites *Mullane* vs. *Central Hanover National Bank & Trust Co.*, (1949) 339 U. S. 306, 94 L. Ed. 978, as a controlling decision. As set forth in our statement in support of jurisdiction, the notice in the case at bar fails to comply with the standard set forth in the opinion in the case last cited. The published notice in the *Mullane* case contained the name of each trust, although it did not contain the names of the persons having a contingent interest in the trusts, which names and addresses were then unknown to the trustee.

It appears from the opinion that this court was influenced in holding that the statement of such names was

not necessary by several facts not present in the case at bar. First, notice of the manner in which notice would be given of the settlement of the account had previously been given, pursuant to the statute, to the persons interested in each trust. Second, the persons whose addresses were known, to whom notice was required to be mailed by the trustee, had a common interest in the due administration of the trust, with those having a contingent interest. Third, the statute provided for the appointment of a guardian for those having an interest in the income and who did not appear, and also a guardian for those having an interest in the corpus who failed to appear, so that all interests would be adequately protected. Fourth, it was essential that the accounts of the trustee be settled, and the expense of ascertaining the names of everybody then having an interest, vested or contingent, in the trust would have been very great and upon being charged to the trust would have reduced the interests therein of the beneficiaries.

In the case at bar the claimants whose property was escheated by the judgment have no interests in common, each has a wholly independent claim. The purpose of the proceeding is to take their property, for the benefit of the State, and to deprive them of any remedy against the defendant corporation.

Even if it be presumed that the claimants had knowledge of the escheat statute which was enacted long after their claims arose, it cannot be presumed that they had any knowledge of the institution of the proceeding or of the time and place of hearing.

In a very real sense the judgment of the court deprives them of their property without any opportunity afforded them to appear and assert their claims.

Appellee's counsel cite *The Mary*, (1815) 13 U. S. (9 Cranch) 126, 3 L. Ed. 678; at page 10, *Hollingsworth* vs.

Barbour, (1830) 29 U. S. 466, 7 L. Ed. 922; and at page 14, *Williams* vs. *Amroyd*, (1813) 11 U. S. 423, 3 L. Ed. 392. These cases are cited evidently for the purpose of sustaining appellee's contention that no notice was necessary other than institution of the proceeding and the injunction restraining the appellant from transferring the property.

These three cases are distinguishable. In *The Mary* and in *Williams* vs. *Amroyd*, the seizure was of a vessel in charge of a representative of the owner. In *Hollingsworth* vs. *Barbour* the proceeding was not a proceeding *in rem* and the judgment based on published notice was held to be invalid because the statute failed to provide for published notice. The difference between the notice to the owner afforded by a seizure of such tangible property and the institution of a proceeding to take intangible property is suggested in the opinion of *Mullane* vs. *Central Hanover Bank & Trust Co., supra.*

It is also suggested by the sentence which immediately follows the quotation contained on page 10 of appellee's brief from the decision of this court, in *Hollingsworth* vs. *Barbour*. This sentence is as follows:

> ". . . But, if these cases do form an exception, the exception is confined to cases of the class already noticed, where the proceeding is strictly and properly *in rem* and in which the thing condemned is first seized and taken into the custody of the court."

The proceeding in the case at bar, while in the nature of a proceeding *in rem*, is not strictly and properly such a proceeding within the meaning of the dictum in the case last above cited.

Appellee's counsel cite *Anderson National Bank* vs. *Luckett*, (1944) 321 U. S. 233, 243, 88 L. Ed. 692, in attempting to support their contention that no notice other than the

institution of the proceeding and the injunction against the Standard Oil Company is required. The case cited, however, did not consider the validity of a statute under which a judgment was to be entered transferring the property from the claimant to the State. Furthermore, the court considered the adequacy of the notice given in addition to the seizure and held that because it was in accord with the time honored method of giving notice in Kentucky, that it was adequate in view of the character and purpose of the proceeding. As appears from the quotation from the opinion in the *Luckett* case on page 11 of appellee's brief, the court relied upon *Corn Exchange Bank* vs. *Coler*, (1929) 280 U. S. 318, in which this court sustained the validity of a procedure based upon an English statute passed in 1718 and a New York Colonial statute enacted in 1773 and reenacted by the State of New York in 1784.

There is no time honored practice in New Jersey supporting such an inadequate notice as is provided by the 1946 Escheat Act.

Counsel cite and quote from the opinion in *Security Savings Bank* vs. *California* (1923), 263 U. S. 282, 68 L. Ed. 301, and state that the procedure considered in that case was substantially the same as in the present New Jersey case. This statement is erroneous.

The procedure in the case last cited is set forth in the opinion at pages 284 and 285, and more fully in the opinion of the Supreme Court of California, 186 Cal. 419, 199 P. 791. Each depositor was made a party to the proceeding. The summons naming each party was published for four weeks in a newspaper of general circulation, published in that county. With the summons a notice also was published requiring all persons, other than the named defendants, to appear and show cause why the moneys involved in the suit should not be deposited with the State Treasury.

It also appears in the opinion of this Court at page 289, *et seq.*, that a statute of California required the annual publication in a newspaper of the city in which the bank is located of a statement showing the amount of each deposit therein, the name and last known residence of each depositor and the fact of his death, if known, in all cases where the depositor had not made a deposit or withdrawal for ten years next preceding, unless the depositor was known to be living or the deposit was less than $50.

The court said:

> "The fact that, after nine, or more, such publications in the local newspaper, a deposit remains unclaimed, affords the legislature some basis for thinking that the further publication provided for in these proceedings would be more apt to accomplish the purpose of actual service, if made in the county in which the State capitol is located."

In the case cited no objection was urged on the ground that the time allowed was not sufficient for entering an appearance as in *Roller* vs. *Holly* (1900), 176 U. S. 398, or that the contents of the notice failed to convey the required information as in *Grannis* vs. *Ordean* (1914), 234 U. S. 385. See page 288 of the opinion.

Counsel erroneously state at page 7 that the appellant does not contend that the notice as actually published was insufficient and did not constitute due process. We do contend that the notice as actually published, as well as the notice prescribed by the statute, was equivalent to no notice at all and not sufficient to constitute due process. The statute only required that the notice be published for three successive weeks in one newspaper of general circulation designated by the court. See section 7. The court designated the Trenton Times, a newspaper published in Trenton of circulation principally in Mercer County.

The last known addresses of the persons whose property was escheated by the judgment of the court were stated in the record of the case and are as follows:

> Six in New York City; two in Mexico; one in Memphis, Tennessee; one in Dallas, Texas; one stated in the notice to be in Wheeling, Virginia (although the correct address was Wheeling, West Virginia); one in Washington, District of Columbia; one in River Forest, Illinois; one in Logan, Ohio; one in Kansas City, Missouri; two in Springfield, Massachusetts; one in Charleston, South Carolina; one in Manhattan, Kansas; one in Watsonville, California; and only one in New Jersey, in the City of Elizabeth.

It is respectfully submitted that three weeks' publication in a newspaper in Trenton would be equivalent to no notice at all to most of these individuals. It does not appear that any except the one New Jersey resident was ever in New Jersey, or, in fact, had ever heard of the Trenton Times, in Trenton, New Jersey. There is no basis for the belief that anyone in New Jersey who might happen to see the notice would have any acquaintance with or knowledge of these claimants.

Entirely aside from the question of the contents of the notice, the statutory requirements for publication and the publication actually made was a perfectly useless gesture which afforded none of the claimants the slightest opportunity to learn of the proceeding, or to appear and protect their interest.

Several of these claimants were the record holders of stock in the defendant Company, and each of them had claims for dividends which were enforceable against the defendant Company, notwithstanding the period of time which had elapsed since they had communicated with the Company. In view of this fact, it is not realistic to suggest

that by the judgment of the court they were not deprived of anything, for if the judgment is valid, their stock and their claims against the Company for dividends were confiscated by the State without any real opportunity afforded them to assert their claims. If, as contended by the appellant, the judgment is invalid, they still may establish their claims against the Company, in the Courts of New York, or Maryland, or in the Canal Zone, and the judgment will afford no protection to the Company from such claims.

If any effort were really made to afford notice to these claimants by publication, the notice would have been published at the place of their last known addresses, for it is probable that even though they did not then reside there, some relative or acquaintance, if the notice came to their attention, would advise them of the pendency of the proceeding.

As was well stated in the dissenting opinion of Chief Justice Vanderbilt:

> ". . . This notice, moreover, need only be published once a week for three successive weeks in a single newspaper, and the owner to whom it is supposedly directed must file his claim five days before the time fixed for the hearing. Such notice is wholly inadequate when it is borne in mind that the very purpose of the act is to extinguish the rights of persons whose names or whereabouts are unknown. Neither the information contained in the notice, nor the publication of it, nor the time allowed to file a claim are reasonably calculated to inform owners of the property of the impending proceedings, and to give them an opportunity to appear and protect their interests. The notice required by the Statute is, in effect, no notice at all to anyone."

It is well established that if the notice is inadequate, the judgment is ineffective to protect the defendant against

the subsequent assertion of the claims of the claimants against it, and that the defendant, therefore, is entitled to raise this question. See *Security Savings Bank* vs. *California* (1923), 263 U. S. 282, and *Anderson National Bank* vs. *Luckett* (1944), 321 U. S. 233.

We concede that this court is reluctant to decide that the publication of a notice sustained by the highest court of the State is inadequate because of failure to comply with the due process requirement. Unquestionably this court has the power so to do. See: *Rolier* vs. *Holly* (1900), 176 U. S. 398.

In *Bellingham Bay etc. Co.* vs. *New Whatcom* (1899), 172 U. S. 314, the question involved was whether the publication of a notice of re-assessment of property in New Whatcom for an improvement, which notice was published for three days and required any property owner who wished to appear to appear ten days from the last publication, was sufficient. The owner of property who questioned the adequacy of the notice had its principal office in the City of New Whatcom. In holding the notice sufficient this court said:

> " . . . It may be that the authority of the legislature to prescribe the length of notice is not absolute and beyond review, but it is certain that only in a clear case will a notice authorized by the legislature be set aside as wholly ineffectual on account of the shortness of time. The purpose of notice is to secure to the owner the opportunity to protect his property from the lien of the proposed tax or some part thereof. In order to be effectual it should be so full and clear as to disclose to persons of ordinary intelligence in a general way what is proposed. If service is made only by publication, that publication must be of such a character as to create a reasonable presumption that the owner, if present and taking ordinary care

> of his property, will receive the information of what is proposed and when and where he may be heard. And the time and place must be such that with reasonable effort he will be enabled to attend and present his objections."

The above recited quotation is just as applicable to publication of a notice at a place and in circumstances where there is not the slightest probability that the notice will ever come to the attention of the persons interested as it is to a publication for an inadequate period. The State has no interest in the shares of stock and the claims for dividends, unless they have in fact been abandoned. The failure of the stockholders to claim their dividends and to keep the corporation advised of their present addresses is at most but presumptive evidence of abandonment. Their right to enforce their claims against the appellant has been in no respect affected by their delay. They are entitled to an opportunity to rebut the presumption of abandonment. Because of the utter inadequacy of the published notice in this case they have been deprived of that right.

The last known addresses of each of these claimants appear in the record of the case. The publication of the notice in a local newspaper having a restricted circulation in a place remote from the last known addresses of all but one of the claimants, and the failure of the claimants to appear in response to such publication leaves the State's claim resting only upon a presumption which the interested stockholders have had no opportunity to rebut.

The notice required by the statute and directed by the court was published in such a way as to make it certain that none of the nonresident claimants would ever learn of it. The State, therefore, is in the position of seeking to confiscate these claims of nonresidents without affording them any real opportunity to appear and present their

claims, and without any proof of the fact upon which the State's right depends, other than the presumption which the stockholders have had no opportunity to rebut.

The fact that, as stated in the majority opinion of the New Jersey Supreme Court, a stockholder may apply to the court to open the judgment within two years after its entry does not make the statutory proceeding accord with due process. If an owner of shares of capital stock should succeed in opening the judgment, he would not receive his shares of stock or the then value of such shares, or even the full amount of the money received by the State upon the sale of the shares. He would only receive such money, less the amount of counsel fees allowed by the court to the counsel of the State, the percentage of the escheator, and the costs of the proceeding or such part thereof as might be apportioned to the proceeds of the sale of his stock.

We respectfully submit that this case is the clear case, in which this court should exert its power to hold that the notice given in this case was so obviously inadequate as to render the proceeding violative of the due process of law provision, and that claimants are not deprived of their property by the proceeding, and that the judgment does not protect the appellant against the subsequent assertion of their claims against it.

The Property Escheated by the Judgment of the State Court had No *Situs* in New Jersey for the Purpose of Escheat.

This point is discussed in our statement in support of jurisdiction. As stated therein, it appears from the stipulation of facts in the trial court that the executive offices of the appellant, the Standard Oil Company, have been located in New York City since 1927, since which date it

has owned no property in the State of New Jersey, except certain records at its statutory registered office and has had no place of business in New Jersey, except such statutory office. It is suable in the State of New York, in the State of Maryland and the Canal Zone.

The last known addresses of the persons whose claims were escheated, with only one exception, are not in the State of New Jersey. The last known address of two or the persons whose property is covered by the judgment of escheat was in the Country of Mexico. Six of such persons had last known addresses in the City of New York. The last known addresses of the others range from Tennessee to California.

The claims escheated by the judgment consist of shares of capital stock in the defendant company and unclaimed dividends. The judgment of the trial court escheated unclaimed dividends payable to many hundred former stockholders whose last known addresses were all over the world, including the Island of Java, Argentine Republic, Canada, Cuba, England, Mexico, Brazil, France, Holland, the Island of Sumatra, Venezuela, Chile, Uruguay, Peru and other foreign countries and in almost every state of the United States, including a considerable number in the State of New York. The judgment, however, as modified by the Supreme Court excluded all of the claims except those of persons who were named in the published notice.

The State Supreme Court determined that the trial court had jurisdiction for the purpose of escheat over the claims in question and cited and relied upon *Security Savings Bank* vs. *State of California* (1923), 263 U. S. 282; *Anderson National Bank* vs. *Luckett* (1944), 321 U. S. 233; *State Tax Commission* vs. *Aldrich* (1941), 316 U. S. 174; *Northwest Airlines* vs. *Minnesota* (1943), 322 U. S. 292; *Connecticut Mutual Life Insurance Company* vs. *Moore* (1949), 333 U. S. 541.

The case at bar is readily distinguishable from each of the cases above cited. This court in *Security Savings Bank* vs. *California, supra,* based its decision of jurisdiction not only on the fact that the unclaimed deposits were debts due by a California corporation but upon the further facts that the place of business of the defendant corporation was in California, and that the debts arose out of contracts made and to be performed in that state. The court said at page 285:

> "The unclaimed deposits are debts due by a California corporation with its place of business there. *State* v. *Anglo & London Paris National Bank,* 186 Cal. 746, 753; *State* v. *Security Savings Bank,* 186 Cal. 419, 423. The debts arose out of contracts made and to be performed there. *Farmers & Merchants Bank* v. *Federal Reserve Bank,* 262 U. S. 649, 660. Thus the deposits are clearly intangible property within the State. Over this intangible property the State has the same dominion that it has over tangible property."

In *Anderson National Bank* vs. *Luckett, supra,* this court said at page 241:

> "The deposits are debtor obligations of the bank, incurred and to be performed in the state where the bank is located and hence are subject to the state's dominion."

Citing, among other cases, *Security Savings Bank* vs. *California, supra.*

In the *Luckett* case the portion of the statutory provision there sustained had no effect upon the title of the depositors in the bank. It merely provided for the transfer of the custody of the deposits to an officer of the State to remain subject to the claims of the depositors, unless and

until an escheat proceeding should be instituted in which proof of actual abandonment was required as a condition of escheat. We have found no case in this court which considers the right of the state of domicile of a corporation which is suable in other jurisdictions to escheat claims of nonresidents based upon contracts made outside of the state and enforceable where made.

In *United States* vs. *Klein*, (1937) 303 U. S. 276, the funds escheated by the State of Pennsylvania were within the control of the United States District Court of a Pennsylvania District. The United States Government made no claim to the funds and the claimants could not secure such funds without coming into Pennsylvania and establishing their claims before the United States District Court there.

State Tax Commission vs. *Aldrich* (1941), 316 U. S. 174; *Corry* vs. *Baltimore* (1904), 196 U. S. 466; *Schuylkill Trust Co.* vs. *Pennsylvania* (1937), 302 U. S. 506, and *Blackstone* vs. *Miller* (1903), 188 U. S. 189, all of which cases are cited in the brief of appellee are tax cases, which hold that the capital stock of a corporation has a situs for the purpose of taxation at the domicile of the corporation and at the same time at the residence of the owner which may be in a different state. These cases are based upon the legal principal that intangible property may at the same time have a situs for taxation in more than one jurisdiction. The taxation at the domicile of the corporation under these decisions does not relieve the owner from the burden of taxation at his domicile in another jurisdiction. These tax cases are inapplicable unless it should be held that the same chose in action may at the same time have a situs in more than one jurisdiction for the purpose of escheat. Certainly a double escheat of debts owing by a corporation would deprive such corporation of its property without due process of law.

The decision of this court in *Connecticut Mutual Life Insurance Co.* vs. *Moore, supra,* supports a result directly contrary to the decision of the New Jersey Supreme Court.

In the case last cited this court held that insurance companies incorporated under the laws of states other than the State of New York, but doing business in such state, could lawfully be required by a statute of New York to pay over to that State the proceeds of insurance policies unclaimed for a designated period, where the policy was issued for delivery in New York upon the life of a person then resident therein, if the assured continued to be a resident of New York and the beneficiary also was a resident of such state at the maturity of the policy.

As appears from the dissenting opinion of Mr. Justice Jackson, one of the plaintiffs in the case cited was a corporation of Pennsylvania, and under the laws of Pennsylvania, the proceeds of the very policies which it was required to pay to New York, were escheatable in Pennsylvania, regardless of where the insured or the beneficiary resided.

While the decision in the case cited did not in express terms deny the right of Pennsylvania to escheat the proceeds of the policies claimed by New York, it in effect denied such right unless there could be a double escheat. The right of Pennsylvania to escheat the policies claimed by New York was not definitely decided as the prevailing opinion expressed the view that that question was not directly presented.

We respectfully submit that the question is directly presented in the case at bar for there are claims involved based on contracts made in New York with persons who then lived in New York and who presumably continued to live there, and the defendant is suable in New York.

If New York has the power to escheat these claims and New Jersey has no such power, the judgment in the case at bar is invalid because rendered by a court having no jurisdiction over the claims in question for the purpose of escheat or over the owner of such claims and the defendant is not protected by the judgment either against the claims of New York or the claims of the persons whose property the judgment escheats.

To require the defendant to pay to the State of New Jersey the amount of these claims without protecting it from a subsequent action against it either by the State of New York or the claimants would be to take its property without due process of law.

Appellee cites *Pennington* vs. *Fourth National Bank*, (1917), 243 U. S. 269, at page 18 of its brief. The case cited involved an attachment against a bank account of a nonresident in order that such account might be applied in satisfaction of an obligation of the nonresident. In the case at bar the state confiscates the property of nonresidents for its own use in order to enhance its revenues.

We respectfully submit that a distinction exists between the attachment of the property of a nonresident and its application in satisfaction of his debts, and the appropriation of his property simply because the corporate debtor has not heard from him in fourteen years.

The *Situs* of Shares of Capital Stock for the Purpose of Escheat Is Where the Stock Certificates Are Located.

The escheat statute of New Jersey, as construed by the State Supreme Court, takes only the interest of the unknown or absentee owner. See: 5 N. J. 281. The opinion of the state court says at page 298:

> "The state's right is purely derivative; it takes only the interest of the unknown or absentee owner.

> . . . the state takes only the creditor's right; it cannot create or revive an obligation that had no existence or had become extinct."

The effect of the judgment is to confiscate the claims of nonresidents of New Jersey and to enforce such claims against the appellant and to do this notwithstanding the fact that the contracts on which these claims were based were not made in New Jersey and were enforceable against the Company in jurisdictions other than New Jersey as well as in that state.

By the judgment the appellant is ordered "to issue in the name of and deliver to the Treasurer of the State of New Jersey certificates for twelve (12) shares of its common stock in lieu of the certificates for said number of shares mentioned in Exhibit 3 of the above mentioned stipulation (which last mentioned certificates are not in the possession or under the control of the defendant) and that the Standard Oil Company make all necessary entries upon its books and records of the issuance in the name of and delivery to the Treasurer of the State of New Jersey of the aforementioned certificates, and of title to the said shares of stock in the Treasurer of the State of New Jersey".

The judgment does not direct that the outstanding certificates be cancelled, and since they are owned by nonresidents who have the power to transfer title thereto by a transfer of the certificate, it is at least doubtful if the court had the power to direct the cancellation of such outstanding certificates, even prior to the enactment in 1916 by the State of New Jersey of the Uniform Stock Transfer Act, now R. S. 14:8-23 *et seq.* Long prior to the enactment of that act, however, it was established by the law of New Jersey that the transfer of a share of stock with proper endorsement or assignment transferred the equitable interest

therein. *Broadway Bank* vs. *McElrath* (Ch.—1860) 13 N. J. Eq. 24.

In *Direction Der Disconto-Gesellschaft* vs. *United States Steel Corporation* (Dist. Ct. N. Y.—1924) 300 Fed. Rep. 741, the United States District Court for the Southern District of New York sustained the claim of the Trustee of England, appointed under the Trading With The Enemy Act of that country to shares of stock of the United States Steel Corporation, a corporation of New Jersey, on the ground that the certificates of stock had been seized in England. In the course of his opinion Judge Learned Hand stated that there was nothing in the decision of this court in *Jellenik* vs. *Huron Copper Co.* (1900), 177 U. S. 1, which could be regarded as holding that shares of corporate stock could have *no situs* other than at the domicile of the corporation.

The decision in *Disconto-Gesellschaft* v. *United States Steel Corporation* was affirmed by this court, 267 U. S. 22. In the course of the opinion Mr. Justice Holmes refers to the opinion of the District Court as leaving nothing to be added.

In the course of his opinion in the case last cited Mr. Justice Holmes said in part:

> "The appellants, starting from the sound proposition that jurisdiction is founded upon power, overwork the argument drawn from the power of the United States over the Steel Corporation. Taking the United States in this connection to mean the total powers of the Central and the State Governments, no doubt theoretically it could draw a line of fire around its boundaries and recognize nothing concerning the corporation or any interest in it that happened outside. But it prefers to consider itself civilized and to act accordingly. Therefore New Jersey having authorized this corporation like others

to issue certificates that so far represent the stock that ordinarily at least no one can get the benefits of ownership except through and by means of the paper, it recognizes as owner anyone to whom the person declared by the paper to be owner has transferred it by the indorsement provided for, wherever it takes place. It allows an indorsement in blank, and by its law as well as by the law of England an indorsement in blank authorizes anyone who is the lawful owner of the paper to write in a name, and thereby entitle the person so named to demand registration as owner in his turn upon the corporation's books. But the question who is the owner of the paper depends upon the law of the place where the paper is. It does not depend upon the holder's having given value or taking without notice of outstanding claims but upon the things done being sufficient by the law of the place to transfer the title. An execution locally valid is as effectual as an ordinary purchase. *Yazoo & Mississippi Valley R. R. Co.* v. *Clarksdale*, 257 U. S. 10. The things done in England transferred the title to the Public Trustee by English law."

In *Klein* vs. *Wilson & Co.* (Dist. Ct. N. J.—1924), 7 Fed. (2d) 769, aff'd. on opinion below (C. C. A. 3rd—1925), 7 Fed. (2d) 777, a bill was filed by a stockholder of Wilson & Co., a corporation of the State of New York, for the appointment of a receiver of that corporation on the ground of insolvency. Wilson & Co. had no assets in New Jersey but it owned all of the capital stock of Wilson & Co., a New Jersey corporation, which had property and assets in New Jersey. The certificates for such stock were in the possession of the New York corporation in New York. The court held that the New York corporation had no assets in New Jersey which would warrant the appointment of a receiver in that state, that the situs of the stock of the New

Jersey corporation was in New York where the certificates were held.

In *In re Rapoport's Estate* (Sup. Ct.—1947), 317 Mich. 291, 26 N. W. (2d) 777, cert. den. 332 U. S. 764, it was held that certificates of corporate stock being a part of the estate of a decedent who died domiciled in California but which at the time of his death were in Detroit, Michigan, were property within the State of Michigan and subject to escheat by the State of Michigan, the decedent having died intestate leaving no one capable of taking his estate. The litigation was between the California administrator and the administrator in Michigan.

New Jersey Has No Power to Escheat Claims of Nonresidents Based Upon Contracts Made Outside of New Jersey and Enforceable Under the Laws of the State Where Made and Where the Appellant Is Suable.

As above stated the state under the judgment of escheat takes the claims of nonresidents based on contracts not made in New Jersey simply because the claimant has not asserted such claims for fourteen years, or because the whereabouts of the owner have been unknown to the corporation for the same period. The statute is not a true escheat statute as there has been no proof in the case that the claims and capital stock have no owner as in the case where the owner has died intestate leaving no one capable of taking his property. There is no presumption that the owner is deceased. Even if he were deceased, there would be a presumption in absence of proof to the contrary that he left someone capable of taking his property. The statute is a confiscation statute rather than a true escheat statute.

The question involved is whether the state has the power to confiscate property of nonresidents, not served with process in New Jersey, on the theory that the shares of

capital stock and the indebtedness of the corporation to the claimants for dividends is property in New Jersey which the state may lawfully confiscate.

It is well settled that the laws of a state have no operation beyond its boundaries, except as required by the full faith and credit clause of the Federal Constitution.

In *Ogden* vs. *Saunders* (1827), 12 Wheat. 214, 358 *et seq.*, suit was instituted in Louisiana by a citizen of Kentucky against the plaintiff in error, a citizen of Louisiana. The defendant pleaded a certificate of discharge from all his debts under the insolvent laws of the State of New York, where he then resided. Judgment was rendered for the plaintiff and the defendant appealed to this Court. The opinion of this Court was written by Mr. Justice Johnson and commences at page 358. At page 368 the Court said:

> "I, therefore, consider the discharge, under a state law, as incompetent to discharge a debt due a citizen of another State; and it follows that the plea of a discharge here set up, is insufficient to bar the rights of the plaintiff."

Several opinions were rendered in the case last cited which were not entirely harmonious.

In *Boyle* vs. *Zacharie* (1832), 6 Peters 348, this Court said that the opinion of Justice Johnson was to be regarded as the opinion of the Court and that whatever principles were established by that opinion are to be considered no longer open for controversy but the settled law of this Court.

In *Denny* vs. *Bennett* (1828), 128 U. S. 489, this Court held that a state statute providing for the distribution of the property of a debtor among his creditors, and his discharge from his debts, did not release a debt due to a citizen of another state, who did not prove his debt, nor

become subject to the jurisdiction of the Court. At page 497 the Court said, after citing *Ogden* vs. *Saunders*, *Baldwin* vs. *Hale*, and *Gilman* vs. *Lockwood*, said:

> " . . . The proposition lying at the foundation of all these decisions is, that a statute of a State, being without force in any other State, cannot discharge a debtor from a debt held by a citizen of such other State."

Quoting from the opinion of this Court in *Gilman* vs. *Lockwood*, the Court said at page 497:

> " . . . Insolvent laws of one State cannot discharge the contracts of citizens of other States; because such laws have no extraterritorial operation, and consequently the tribunal sitting under them, unless in cases where a citizen of such other State voluntarily becomes a party to the proceeding, has no jurisdiction of the cause."

See, also: *Clark* vs. *Willard* (1935), 294 U. S. 211.

While it is conceded that the cases last above cited deal with a situation different from that present in the case at bar, it is, nevertheless, true that in the case at bar the state is seeking to confiscate shares of stock and claims against the appellant of nonresident creditors and stockholders solely on the ground that the state has control of the debtor which is the corporation which issued the stock. The state, however, has no such control over the nonresident creditors and stockholders as to warrant it in confiscating their claims, particularly since the situation is such that their claims may be asserted against the appellant in jurisdictions other than New Jersey.

Appellee's brief contains the statement at page 15 that it is a matter of common learning that an action by an owner of stock against his corporation would have to be

of a possessory (replevin) or of an equitable nature, and that neither of such actions could be maintained against the corporation in a foreign jurisdiction. This statement is utterly unsound.

In *Direction Der Disconto-Gesellschaft* vs. *United States Steel Corporation*, 300 Fed. 741, affirmed 267 U. S. 22, action was brought in the United States District Court for the Southern District of New York by corporations claiming to be the owners of stock of the United States Steel Corporation to establish their title to shares of stock of such corporation. The Public Trustee of England who was appointed under the Trading With The Enemy Act of that country claimed to be the owner of the stock and the United States Steel Corporation was directed to register the Public Trustee as shareholder upon the surrender of the certificates of stock held by such Trustee.

Furthermore, if, as we contend, the judgment of the Supreme Court of New Jersey is invalid, and the appellant were to issue the shares of stock to the state in compliance with said judgment, the true owners of the certificates of stock would not only have the power to sue the appellant in the courts of New York to establish their title to the stock but would also have the power to sue the appellant in courts other than New Jersey for damages for the conversion of their stock, and it is unquestionably true that the judgment and compliance therewith would deprive the appellant of its property without due process of law, unless the judgment of the New Jersey court protects it from the claims of states having a right to escheat and also from the claims of the owners of the stock. It is also true that the persons entitled to the dividends, but for the judgment of the New Jersey Supreme Court, would be entitled to sue the appellant for the recovery of such dividends in any jurisdiction where service

upon the appellant could be secured and to recover such dividends if the judgment of the New Jersey Supreme Court is invalid.

The New Jersey Escheat Statute and the Judgment of the State Supreme Court Entered Thereunder Violates Article I, Section 10, Paragraph 1, of the Constitution of the United States.

As above stated, on page 3 *et seq.* hereof, the State has no common law power to appropriate property simply because the owner thereof is unknown. The power of the State, therefore, to appropriate property on the above mentioned basis did not exist until 1946 when the Act under consideration in this case was enacted. Prior to the enactment of said statute, the State had no power to impair the contract rights of the stockholders of defendant Company because of any failure upon their part to assert their rights. They not only could enforce their rights as such stockholders in the State of New Jersey but in other jurisdictions where the appellant was subject to suit. The statute and the judgment thereunder, deprives them of these rights. It not only deprives them of the power to assert their rights against the appellant in New Jersey but everywhere else, substituting for the remedies which they previously had only a theoretical opportunity to appear in the proceeding above mentioned in New Jersey at the time fixed by the court to rebut the presumption of abandonment raised by their failure to collect their dividends or to keep the appellant informed of their respective addresses. The opportunity is only theoretical because the notice is published in such manner as to make it certain that most, if not all of the claimants will not hear of the proceeding in time to appear.

The right to apply to the court to open the judgment within two years after its entry does not make the substituted remedy at all adequate. In the first place, the stockholders, especially those who are not resident in New Jersey, are under no obligation either to collect their dividends within any specified time or to advise the appellant of their respective addresses, and if they delay any such action for two years after the entry of the judgment, they will not learn of it until it is too late to attempt to reopen it. In the next place, even if the judgment is reopened, the stockholders do not receive their stock or even the entire proceeds of its sale. Neither do they receive all of their dividends.

We respectfully submit that this statute and the procedure thereunder resulting in the judgment under appeal seriously impairs and, in fact, destroys the contract rights of the stockholders.

In *Security Savings Bank* vs. *California* (1923), 263 U. S. 282, this court held that a statute escheating bank deposits did not impair the contract rights of the bank, and in *Anderson National Bank* vs. *Luckett* (1944), 321 U. S. 233, this court held that a statute which required the bank to turn over unclaimed bank deposits to a state officer of Kentucky, the deposits to be held for the benefit of the depositor, impaired no contract right of the bank.

Our contention is that the statute under consideration in this case and the judgment entered thereunder does not protect the appellant from the claims of its stockholders whose stock and dividends are escheated by the judgment because, as to them, the statute authorizing the judgment and the judgment entered therunder is invalid as impairing the obligation of their contracts.

In *Connecticut Mutual Life Insurance Co.* vs. *Moore* (1949), 333 U. S. 541, this court held that the statute of

New York to which reference has above been made did not impair the obligations of contracts when its operation was confined, as this court confined it, but that statute differs from the New Jersey act in that the person entitled to the proceeds of the insurance policies could at any time recover from the state the amount of their claims, and even the insurance company, if it subsequently paid the policies, could recover from the state. The small deduction from the amount of the claim imposed by the New York statute was insignificant as compared with the deductions permitted by the New Jersey statute.

In support of our contention that any substantial impairment of the remedy impairs the obligation of the contract in violation of the constitutional provision above mentioned, we cite the following cases: *Edwards* vs. *Kearzey* (1877), 96 U. S. 595; *Walker* vs. *Whitehead* (1872), 83 U. S. 314; *W. B. Worthen Co.* vs. *Thomas* (1933), 292 U. S. 426.

Conclusion.

While the amounts involved in the case at bar are small, the case is a test case, the decision of which will govern more than one hundred other cases now pending in the Superior Court of New Jersey, which have been instituted against other New Jersey corporations based upon the provisions of the New Jersey Escheat Act. These cases in the aggregate involve a very large sum of money, and the individual claims in some of these cases are very substantial. While we concede that for some purposes the situs of corporate stock is at the domicile of the corporation, and the situs of a debt at the domicile of the debtor, it is not true that the situs of the domicile of the corporation or of the debtor is the only situs.

The question involved in this case is not whether the situs of a share of stock or a corporate debt is at the domicile of the corporation for the purposes of taxation, it is solely whether such situs is at such domicile for the purpose of escheat where the contracts upon which the claims are based were not made in New Jersey, not to be performed in New Jersey and were made with nonresidents of New Jersey, who but for the judgment in the case would have valid, enforceable claims against the corporation enforceable in states other than New Jersey and where the claimants have not only not been served with process in New Jersey but have not even had notice of the proceeding calculated to serve any of the purposes for which notice is required to be given under the due process of law clause of the United States Constitution.

We respectfully submit that the questions raised concerning the validity of the New Jersey escheat statute and the judgment rendered thereunder are substantial and that the motion to dismiss the appeal or affirm should be denied.

Respectfully submitted,

JOSIAH STRYKER,
Attorney of and Counsel for Appellant.

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Supreme Court of the United States

OCTOBER TERM 1950.

No. 384.

STANDARD OIL COMPANY,
Appellant,

vs.

THE STATE OF NEW JERSEY, by Theodore D. Parsons, Attorney General of the State of New Jersey.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY.

APPELLANT'S BRIEF.

JOSIAH STRYKER,
Attorney of and Counsel for Appellant.

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Supreme Court of the United States

OCTOBER TERM 1950.

No. 384.

STANDARD OIL COMPANY,

Appellant,

vs.

THE STATE OF NEW JERSEY, by Theodore D. Parsons, Attorney General of the State of New Jersey.

ON APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY.

APPELLANT'S BRIEF.

This is an appeal from the judgment of the Supreme Court of New Jersey. The opinion of the Court below is officially reported in 5 N. J. 281, *et seq.* The opinions of the Superior Court, the Court of original jurisdiction in this cause, are reported in 2 N. J. Super. 442, and 5 N. J. Super. 60.

Grounds on Which Jurisdiction of This Court is Invoked.

The proceeding was instituted under Chapter 155 of the Session Laws of 1946, P. L. 1946, p. 713, as amended by Chapter 357 of the Session Laws of 1947, P. L. 1947, p. 1157, N. J. R. S. 2:53-15 *et seq.* A copy of the above-mentioned act is set forth in the appendix to this brief (appendix, page 1a).

The jurisdiction of this Court is invoked under Section 1257 of Title 28 of the United States Code. The appellant drew in question the validity of the abovementioned statute as violating the due process of law provision of the Fourteenth Amendment of the Constitution of the United States and Article I, Sec. 10, paragraph 1 of said Constitution. The decision of the Supreme Court of New Jersey, the Court of last resort of said State, was in favor of the validity of said statute.

Statement of the Case.

On July 27, 1948, the State of New Jersey commenced this proceeding in the Court of Chancery of New Jersey by filing therein a petition (R. 1-6) pursuant to the provisions of the Act above mentioned and thereafter serving the same upon this appellant. The petition alleged (R. 1) that this appellant had in its custody or possession property which was subject to escheat under the above mentioned Act on the alternative grounds provided in said statute, namely, that:

1. The owner of such property had died intestate without leaving anyone capable of taking the same (R. 2).

2. The owner had been unknown for fourteen successive years (R. 2).

3. The property had been unclaimed for fourteen successive years (R. 2).

4. The whereabouts of the owners had been unknown for fourteen successive years (R. 2-3).

Upon the filing of the petition the Court made an order requiring the appellant to retain in its possession or cus-

tody "such escheatable personal property as it now has in its custody or possession" until the further order of the Court and also requiring the appellant to state in its answer such information regarding "the escheatable personal property in its custody or possession as is pertinent to the prosecution of the cause" (R. 7).

The answer filed by the appellant (R. 8-30) to the petition denied that it had in its custody or possession any personal property which had escheated to the State of New Jersey (R. 8, 9, 10). Annexed to said answer was a statement (R. 14-30) showing certain alleged claims against appellant which had been unpaid for fourteen years, which included the names and last known addresses of persons entitled to unclaimed dividends on its capital stock (R. 14-24). The answer also set forth the names and last known addresses of the record owners of its capital stock whose whereabouts had been unknown to it for fourteen years (R. 27-28).

Subsequently amendments to the answer were filed by leave of the Court (R. 208-215). These amendments set forth:

1. That the alleged claims against it and the shares of its capital stock had no situs in New Jersey for the purpose of escheat (R. 209-211);

2. That the notice to the claimants provided by the statute was inadequate and insufficient to render the proceeding due process of law (R. 211-213);

3. That the above mentioned statute impaired the contracts of the owners of the claims and shares of stock in violation of Article I, Sec. 10, paragraph 1 of the Constitution of the United States (R. 213-215), and

4. That because of the foregoing the judgment of the Court would not protect the appellant from liability to the claimants and stockholders whose claims and stock were escheated to the State and that, therefore, such judgment would deprive the appellant of its property without due process of law (R. 209-215).

The original answer filed (R. 12-13) contained substantially the above mentioned objections except those numbered 2 and 3.

A hearing on the issues raised by the original answer was held on November 30, 1948. Pursuant to an order fixing the time and place of hearing (R. 32) a notice of such hearing was published for three weeks in a newspaper published in Trenton, New Jersey, in which notice neither the amounts of the respective claims sought to be escheated, the names and addresses of the former owners thereof nor the basis of the claimed escheat were set forth (R. 33-35). The adequacy of this notice was attacked by petitioner in its brief and oral argument at the above mentioned hearing.

On March 3, 1949, the Judge of the Trial Court filed his conclusions on the submission of certain legal issues for determination (R. 36-52). In this opinion the Trial Court stated that

> "Frankly, I regard the impoverished provisions pertaining to the notice to be given as an infirmity in the act, but not a mortal one * * *" (R. 52).

The Trial Court recommended that in addition to a summary of the order designating the time and place of the hearing as required by the statute, the notice should also contain the names and last known addresses and amounts of money or character of property belonging to any such person (R. 52).

Subsequent to the preliminary hearing and prior to the final hearing in the Trial Court, the parties agreed to a stipulation of facts (R. 60-207) which was received in evidence (R. 240). This stipulation, among other things set forth in Exhibit 2 thereto annexed, a revised list of the names and last known addresses of the persons appearing by the books of account of the defendant to be entitled to dividends which had been unclaimed for fourteen years (R. 92-197) and in Exhibit 3 the names and last known addresses of the record owners of capital stock of the appellant whose whereabouts had been unknown to appellant for fourteen years (R. 198-199).

No evidence was offered at the hearing for the purpose of establishing that the whereabouts of the record owners of the shares of capital stock were actually unknown or had been unknown for fourteen successive years. The only evidence of such fact is the statement contained in the stipulation that such record owners had failed to receive checks for dividends mailed to their last known addresses for fourteen years (R. 77). The names and last known addresses of the claimants and stockholders included addresses in Mexico, Java, Germany, Switzerland, Uruguay, Chile, the Argentine Republic, Venezuela and Holland (R. 92-199) and also persons whose last known addresses were in the States of California, Illinois, Massachusetts, Missouri, South Carolina and other States of the United States (R. 92-199).

It was further stipulated that since 1927, the appellant has had no office or place of business within New Jersey, except its statutory registered office at Flemington, New Jersey, and since said time has had no tangible property in New Jersey other than its stock and transfer books (R. 90).

On March 21, 1949, the Trial Court entered an order fixing April 27, 1949 at the State House Annex, Trenton, New Jersey, as the time and place of final hearing of the cause and directing that the notice of such final hearing be advertised in a newspaper of general circulation in Mercer County once a week for three successive weeks, addressed to and containing the names and last known addresses of persons or corporations apparently having unclaimed beneficial interest in or ownership of the personal property sought to be adjudged to escheat to the State and directing that any of the said persons or corporations or any other person or corporation claiming a beneficial interest in or ownership of the personal property, or any part thereof mentioned in the petition, should file with the Court his or its claim in writing at least five days prior to the date fixed for the hearing, provided, however, that in the event the value of the personal property of any one apparent owner was less than $50.00 the advertisement need not contain the name or addresses of such person or corporation (R. 53).

The above mentioned provision was based on a proviso contained in the fourth paragraph of Section 7 of the statute. The validity of this proviso was attacked in the Court below both under the State Constitution and the Fourteenth Amendment of the United States Constitution. Its validity was sustained by the Trial Court. The Supreme Court, however, determined that it was invalid but that it was severable from the rest of the act (R. 262-263). The validity of the above mentioned proviso is, therefore, not within this appeal.

The notice (R. 55-59) was published three times in the Trenton Times, a newspaper published in Trenton, New

Jersey. It was not addressed as required by the order but it contains the names and last known addresses of twenty-one persons, some of whom are the owners of record of capital stock of Standard Oil Company, and unpaid dividends thereon, and others of whom are only the owners of unpaid dividends on such stock.

After extended argument on the day fixed for hearing and the submission of briefs by both parties, the Trial Judge determined that the notice was adequate; that every claimant had had an adequate opportunity for a hearing and a determination of his rights; that all of the claims had a situs in New Jersey for the purpose of escheat and that the statute was valid and not subject to any of the objections raised in the answer as amended and argued at length in the briefs and oral argument. His opinion (R. 218-232) is reported in 5 N. J. Superior, page 460. Portions of the opinion which deal with the questions herein involved are reported at pages 474 *et seq.* (R. 228-232).

Pursuant to the statute above mentioned the judgment of the Trial Court (R. 232-235) determined that unpaid dividends amounting to $6,238.01; twelve shares of common stock of Standard Oil Company having an aggregate par value of $300.00; unpaid wages of former employees of Standard Oil Company amounting to $31,381.08; amounts withheld from former employees of Standard Oil for the purchase of Liberty Bonds aggregating $1,210.00; amounts of unpresented commercial bank checks issued by Standard Oil Company aggregating $8,561.62; and amounts due on account of debenture coupons aggregating $3,125.00 were all subject to escheat and required Standard Oil Company, the appellant herein, to pay the above amounts to the State of New Jersey and to issue in the name of and deliver to

the Treasurer of New Jersey certificates for twelve shares of common stock of the Standard Oil Company which last mentioned certificates were not in possession of or under the control of the Standard Oil Company.

Pursuant to the rules of the New Jersey Supreme Court, the court of last resort in New Jersey, that Court, on application of Standard Oil Company, the appellant herein, made an order certifying the above mentioned judgment of the Superior Court to the Supreme Court.

The Supreme Court modified the judgment of the Trial Court by excluding from the judgment (1) all claims barred by the Statute of Limitations of New Jersey (R. 252) and (2) all claims of persons not named in the published notice of final hearing (R. 262). The Supreme Court held, however, that the choses in action and shares of stock had a situs in New Jersey for the purpose of escheat (R. 262); that the notice given was adequate with respect to the claims of the persons whose names were stated therein (R. 262), that the contracts upon which the claimants based their claims were not impaired by the statute or the proceedings thereunder (R. 261) and that the judgment protected the appellant from liability to the claimants and stockholders whose claims and stock were escheated by the judgment (R. 257, 260). The decision of the Supreme Court, therefore, was in favor of the validity of the statute above mentioned and affirmed the judgment entered thereunder as so modified by it (R. 263).

The judgment of the Supreme Court (R. 265) modifying the judgment of the Trial Court in accordance with the opinion of the Supreme Court escheats to the State twelve shares of capital stock of the appellant owned by stockholders, the last known addresses of whom were in Yucatan,

Mexico; River Forest, Illinois; Elizabeth, New Jersey; New York City and Watsonville, California and unpaid dividends aggregating $128.73 to which the above persons were entitled and also unpaid dividends owing to persons whose last known addresses were as follows:

> Five in New York City; one in Memphis, Tennessee; one in Dallas, Texas; one in Wheeling, Virginia (as stated in the notice, but evidently intended to be West Virginia); one in Washington, D. C.; one in Logan, Ohio; one in Kansas City, Missouri; one in Springfield, Massachusetts; one in Charleston, South Carolina; one in West Springfield, Massachusetts; one in Mexico; one in Manhattan, Kansas.

The dissenting opinion of Chief Justice Vanderbilt (R. 263-264), in which Justice Case concurred, held that the notice prescribed by the statute was entirely inadequate, that the statute did not require the names and addresses of the last known owners of the claims in question to be stated in such notice or that the character of the property be specified therein, or that the basis of escheat be therein set forth. This dissenting opinion also stated that the requirements that the notice be published for three successive weeks only in a newspaper in Mercer County, New Jersey, and that the claimants to the property involved in the proceeding must file their claims within five days prior to the time fixed for the hearing were inadequate and that the statute violated the due process of law provisions of the Fourteenth Amendment of the Constitution of the United States. The two dissenting judges voted for a reversal of the judgment below in its entirety because of the inadequacy of the notice prescribed by the statute and the inadequacy of the opportunity for a hearing.

Specification of Such of the Assigned Errors As Are Intended To Be Urged.

The appellant contends:

1. That the judgment of escheat entered pursuant to the statute deprives it of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States because such judgment does not protect it from liability to the stockholders whose claims are escheated because the notice to the claimants prescribed by the statute and the notice, as published, were so inadequate as to afford to the claimants no reasonable opportunity to learn of the pendency or purpose of the proceedings or its effect upon their claims, or to afford them an opportunity to appear and protect their rights. This contention is covered by assignment of errors numbers 3, 4, 5, 6, 9, 10 and 11 (R. 269-271).

2. That the statute, pursuant to which the judgment was entered, and the judgment vesting the title in the State to the property covered thereby violated Article I, Section 10, Paragraph 1 of the Constitution of the United States in that they impaired the obligation of the contracts of the persons whose property was escheated, and, therefore, such judgment does not protect the appellant from liability to such persons and deprives the appellant of its property without due process of law in violation of the Fourteenth Amendment to the Constitution of the United States. This claim is covered by assignment of errors numbers 7, 9, 10 and 11 (R. 270-271).

3. That neither the shares of capital stock escheated by the judgment nor the dividends on shares of stock had a situs in New Jersey for the purpose of escheat; and irre-

spective of situs neither such shares nor dividends were lawfully seized in the proceeding; that, therefore, the Trial Court was without jurisdiction and the judgment escheating such shares of stock and dividends does not protect the appellant from subsequent liability to the owners thereof, and that the statute and judgment entered thereunder deprive the appellant of its property without due process of law in violation of the Fourteenth Amendment of the Constitution of the United States. This is covered by assignments of error numbers 1, 2, 3, 8, 9, 10 and 11 (R. 269-271).

ARGUMENT.

The Common Law Power of the State of New Jersey to escheat personal property exists only in the case of property which has no other owner not in the case of abandoned property or of property the owner of which is unknown.

Although it was claimed by the State that it had a common law power to escheat the shares of capital stock and claims in question, the decision of the State Supreme Court did not sustain this claim. The Court cited *Dyke* v. *Walford* (Privy Council, 1846), 5 Moo. P. C. 434, 13 Eng. Reports, Full Reprint 557, as establishing the common law right under the doctrine of *bona vacantia* to take property which has no owner (R. 251). The Court said "The principle was that the right to take that which belonged to no one appertained to the crown as *jura regalia*" 5 N. J. L. 281, 297 (R. 251).

The decision in *Dyke* v. *Walford, supra,* reviews the history and considers the extent and effect of the doctrine of *bona vacantia.* In the course of the argument in this case Mr. Parker, who was of counsel, said:

> "The rule at Common law, is, that property must belong to somebody; and where there is no other owner, not where the owner is unknown, that is the distinction, it is the property of the Crown."

The court in *Dyke* v. *Walford* adopted this statement of Mr. Parker, stating with reference to *bona vacantia* at page 580 of the Reprint report:

> "* * * it is the right of the Crown to '*bona vacantia;*' to property which has no other owner."

The opinion in *In re Wells* (Chancery Div., 1933), 1 Ch. 29 cites *Dyke* v. *Walford*. Lord Hanworth said at page 44, speaking of *bona vacantia:*

> "* * * it is the right of the Crown to '*bona vacantia*'; to property which has no other owner."

In the same case Lawrence, L. J., said at page 50:

> "The right of the Crown to succeed to the personal estate vested in a company at the time of its dissolution does not in my opinion differ in substance from the right of the Crown to succeed to the personal estate of a person dying intestate without next of kin. In both cases the title of the Crown arises because the property has no other owner; such property must not, of course, be confused with property the owner of which is unknown."

Romer, L. J., in the same case, speaking of *Dyke* v. *Walford*, said at page 56:

> "The Privy Council in fact accepted the argument put forward by Mr. Parker in that case, that the rule at common law is that property must belong to somebody, and where there is no other owner, not where the owner is unknown, that is the distinction, it is the property of the Crown. The distinction referred to by Mr. Parker is, of course, that on which such cases as *Armory* v. *Delamirie* are based. But

this right of the Crown to property that has no other owner has been frequently stated by writers of great authority."

In *Armory* vs. *Delamirie*, 1 Strange 504, 1 Smith's Leading cases, 8th Ed. 679, the plaintiff, a chimney-sweeper's boy found a jewel and carried it to the defendant's shop to know what it was, and delivered it into the hands of the apprentice, who, under a pretense of weighing it, took out the stones. The master offered the boy three half-pence, and upon his refusal to accept it, delivered to him the socket without the stones. In a suit against the master it was held:

> "That the finder of a jewel, though he does not by such finding acquire an absolute property or ownership, yet he has such a property as will enable [him] to keep it against all but the rightful owner, and consequently may maintain trover."

In *"Bona Vacantia"* by F. A. Enever, the author says at page 13:

> "It is only under one special title that the King may claim property as *bona vacantia*. That title arises through the fact that, at a given moment, there is no person who can claim to be entitled to certain property through either of the two means of acquisition, viz., occupation or succession, and that such property would but for the prerogative right of the Crown have no owner. As nature abhors a vacuum, so does our law abhor that ownership be in abeyance, and moreover will not admit of it."

At page 13, the author after criticizing Blackstone's definition of *bona vacantia*, as including all goods which belong to the King, suggests the following definitions:

> "We may overcome the two objections to Blackstone's definition by stating that *bona vacantia* are

> chattels real and personal which not being previously Crown property become through lack of other ownership the property of the Crown or other the persons entitled to such property by virtue of a grant thereof from the Crown."

In *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 240, Chief Justice Stone said:

> "At common law, abandoned personal property was not the subject of escheat, but was subject only to the right of appropriation by the sovereign as *bona vacantia*. See 7 Holdsworth, A History of English Law (2d ed.) 495-496."

The only Volume 7 of Holdworth's "History of the English Law" which we have been able to find is dated 1926. In this volume the author at pages 495 to 496 considers the rule of the English common law, that the finder of abandoned property has a title thereto against all the world except the true owner, except in the case of treasure trove, wreck and waif, etc. We find nothing in this work which supports the statement that the Sovereign under the common law doctrine of *bona vacantia* has the right to appropriate property merely because it has been abandoned.

In Enever on *Bona Vacantia*, page 17, the author says:

> "So far as the law of England is concerned, title by occupancy is in many cases still recognized, so we are debarred from stating dogmatically that *bona vacantia* comprise all personal property to which ownership cannot be claimed by succession. Such personal property of which ownership is not derived by succession is either owned under the mere title of occupancy by a subject or under the doctrine of *bona vacantia* by the Crown or its grantees. Such

personal property may be classed under two headings:—

(1) That which has had a previous owner.

(2) That which has had no previous owner.

The former comprises property which belongs as *bona vacantia* to the Crown or its grantees, with this exception, that things lost or intentionally abandoned may be the subject of title by occupancy. The finder is entitled to these as against all persons save the true owner."

In *Attorney General* v. *Trustees of British Museum*, English Law Reports, 2 Chancery Division (1903) 598, 608, Farwell, J., quoting from Chitty on *Prerogatives*, page 1528, speaking of treasure trove, said:

"* * * 'If the owner, instead of hiding the treasure, casually lost it, or purposely parted with it, in such a manner that it is evident he intended to abandon the property altogether, and did not purpose to resume it on another occasion, as if he threw it on the ground, or other public place, or in the sea, the first finder is entitled to the property, as against everyone but the owner, and the King's prerogative does not in this respect obtain. So that it is the hiding, and not the abandonment, of the property that entitles the King to it.'"

See, also: *Illinois Bell Telephone Co.* v. *Slattery* (C. C. A. 7th, 1939), 102 Fed. (2d) 58 cert. den. 307 U. S. 648.

The right of the State of New Jersey, therefore, to take the property in question depends solely upon the Act of 1946, as amended in 1947. Unless the Act of 1946, as amended, is valid and lawfully authorizes the State, by following the procedure therein provided, to escheat the

property covered by the judgment, the judgment in this cause does not protect the appellant from liability to the stockholders and other claimants whose property is escheated. To compel the appellant to pay the claims and transfer the stock to the State without protecting it from such liability would take its property without due process of law.

The judgment of escheat does not protect the appellant from liability to the owners of the shares of capital stock and claims escheated, and therefore, deprives appellant of its property without due process of law.

This point will be considered under three subdivisions as follows:

1. Both the notice to the claimants as provided by the statute and the notice actually given were so inadequate as to amount to no notice.

2. The statute and the judgment thereunder impair the obligation of the contracts which are the bases of the claims of the respective stockholders and claimants in violation of Article I, Section 10, Paragraph 1, of the Constitution of the United States.

3. The shares of capital stock and claims covered by the judgment as modified by the State Supreme Court have no situs in New Jersey for the purpose of escheat and irrespective of the situs thereof the attempted seizure thereof was invalid.

It is well settled that the judgment of escheat does not protect the appellant from liability to subsequently satisfy the claims escheated by the judgment if the procedure pro-

vided by the statute and employed in this cause was invalid with respect to the claimants. The appellant, therefore, is entitled to present these points which are presented not in the interest of the claimants but in the interest of the appellant for its property is taken without due process of law if the judgment does not protect it from liability to the claimants with respect to such claims. See: *Security Savings Bank* vs. *California*, 263 U. S. 282, 286, 287; *Anderson National Bank* vs. *Luckett*, 321 U. S. 233, 242, 243.

Both the Notice to the Claimants as Provided by the Statute and the Notice Actually Given were so Inadequate as to Amount to no Notice.

The only statutory requirement for notice in the case at bar is contained in section 7 of the Act and is as follows:

> "A notice containing a summary of the order designating the time and place of hearing, as approved by the Court shall be published in a manner directed by the Court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the Court; * * *. Such notice shall direct that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein shall file with the Court his claim in writing, at least five days prior to the date fixed for the hearing." (Appendix 2a)

It will be noted that all that the statute requires the notice to contain is a summary of the order designating the time and place of hearing and that the notice shall direct that any person who may claim to be entitled to the personal property mentioned in the petition or to any part thereof or interest therein shall file with the Court his claim in writing at least five days prior to the date fixed for hearing.

The order fixing time and place for hearing (R. 53) neither contains the name of any claimant nor a designation of the character of any claim. It does not specify the cause of action. It refers to the petition, but the petition does not contain the name of any claimant or designate the character of any claim which any particular individual may have and which the State seeks to escheat. The summary of the order which is all that the statute requires the notice to contain would mean nothing to the owner of any of the claims if perchance it should come to his attention.

The order was made on the 21st day of March, 1949, and the time and place set for the hearing was the 27th day of April, 1949, at the Court House, State House Annex, Trenton, New Jersey. The only publication that the statute requires and the only publication that was made was a publication for three successive weeks in one newspaper of general circulation in Mercer County, New Jersey. The only opportunity that a claimant has to appear and be heard is to file his claim in writing at least five days prior to the date fixed for the hearing.

It is true that the order of the Trial Court (R. 53) provided that the notice published should be addressed to and contain the last known names and addresses of the persons or corporations apparently having unclaimed beneficial interest in or ownership of the personal property sought to be adjudged to escheat, subject to the proviso with respect to claims less than $50.000. The order of the Court did not expressly require that the character of such personal property should be specified in the notice nor that the reason for the claimed escheat should be stated therein.

The notice actually published (R. 55-59) was not addressed to anyone, although the body of the notice contained the names of twenty-one claimants and specified the property to which each of them appeared to have title.

We respectfully submit that the test of the validity of the Act with respect to notice and an opportunity to be heard is what may be done by complying with its provisions. If the Act itself fails to require adequate notice, the fact that the Court, although not required by the Act so to do, supplements the requirement of the Act, will not render either the Act or the procedure thereunder valid. *Wuchter* v. *Pizzutti*, 276 U. S. 13; *Security Trust Company* v. *Lexington*, 203 U. S. 323; *Coe* v. *Armour Fertilizer Works*, 237 U. S. 413; *Stuart* v. *Palmer*, 74 N. Y. 183 (Ct. of App. 1878); *Rassner* v. *Federal Collateral Soc. Inc.*, 299 Mich. 206, 300 N. W. 45 (Sup. Ct., 1941).

In *Wuchter* v. *Pizzutti*, *supra*, this Court said:

> "But it is said that the defendant here had actual notice by service out of New Jersey in Pennsylvania. He did not, however, appear in the cause and such notice was not required by the statute. Not having been directed by the statute it can not, therefore, supply constitutional validity to the statute or to service under it. *Coe* v. *Armour Fertilizer Works*, 237 U. S. 413, 424, 425; *Louisville and Nashville R. R. Co.* v. *Stock Yards Company*, 212 U. S. 132, 144; *Central of Georgia Ry. Co.* v. *Wright*, 207 U. S. 127, 138; *Security Trust Co.* v. *Lexington*, 203 U. S. 323, 333; *Roller* v. *Holly*, 176 U. S. 398, 409; *Stuart* v. *Palmer*, 74 N. Y. 183, 188; *Berryhill* v. *Sepp*, 106 Minn. 458. For these reasons, we think that the statute of New Jersey under consideration does not make provision for communication to the proposed defendant, such as to create reasonable probability that he would be made aware of the bringing of the suit."

The cases cited in *Wuchter* v. *Pizzutti* show that the decision in that case was not based upon the fact that it involved a personal judgment but upon the much broader

principal that the property rights of an individual may not lawfully be affected by a statutory judicial proceeding unless the statute provides for reasonable and appropriate notice to him and an opportunity to be heard.

In *Stuart* v. *Palmer*, 74 N. Y. 183 (Ct. of Appeals 1878), one of the leading cases cited in *Wuchter* v. *Pizzutti*, and which has many times been cited with approval by this Court, it was held that the statute imposing an assessment for a local improvement without notice to or hearing or opportunity to be heard on the part of the owner of the property to be assessed had the effect of depriving him of his property without due process of law. In the course of the opinion the Court said at page 188:

> "I am of opinion that the Constitution sanctions no law imposing such an assessment, without a notice to, and a hearing or an opportunity of a hearing by the owners of the property to be assessed. It is not enough that the owners may by chance have notice, or that they may as a matter of favor have a hearing. The law must require notice to them, and give them the right to a hearing and an opportunity to be heard. It matters not, upon the question of the constitutionality of such a law, that the assessment has, in fact, been fairly apportioned. The constitutional validity of law is to be tested, not by what has been done under it, but by what may, by its authority, be done."

The Supreme Court of New Jersey, in its opinion, conceded that the statute would be invalid and the procedure thereunder would have no validity if the statute failed to provide for adequate notice and an opportunity to be heard. The Court said, however, 5 N. J. page 307 (R. 260):

> "And it is implicit in the statute that the notice shall identify the property of which escheat is sought

> and the last known owner. That is of the very nature of the notice thus prescribed. There could not be 'notice' within the view of the statute without identification of the subject matter of the proceeding."

It will be noted that the Supreme Court did not state that the statute required that the basis of the State's claim of escheat should be stated in the notice.

The dissenting opinion written by Chief Justice Vanderbilt said with reference to the notice, at page 311 (R. 263-264);

> "The notice to be given to the owners of the property of which escheat is sought is provided by R. S. 2:53-21. It does not require that the names and addresses of the last known owners be given, nor that the character of the property be specified, nor that the basis of escheat be set forth."

We concede that ordinarily this Court accepts the construction of a state statute adopted by the highest court of a State. We respectfully submit, however, that the meaning attributed by the New Jersey Supreme Court to the portion of Section 7 of the New Jersey statute which has above been quoted is not based upon anything expressed or reasonably implied in the statutory provisions. The language of the statute prescribes what shall be included in the notice and the court is authorized by the statute to approve any notice which complies with the statutory requirements. The fact that the trial court supplemented the requirement of the statute does not render the act or the procedure thereunder valid. Neither is the statute rendered valid by a construction thereof not supported by anything contained in the statute.

The above quoted language of the Supreme Court is equivalent to a statement that a notice which contained

only what the statute expressly requires would be no notice and, therefore, the court added to the statute a requirement which was not there. The excerpt from the dissenting opinion, which has been quoted abbve, is based upon the language of the act with no attempt at judicial legislation.

The case at bar differs widely from *American Land Company* v. *Zeiss*, 219 U. S. 47, in which it was held that the court would accept the construction of a statute of California which had been adopted by the Supreme Court of that state. In the *American Land Company* case, the construction placed upon the statute by the State Court was a reasonable construction fairly implied by the language of the statute. The language of the statute in the case at bar is so clear that there is no room for construing it otherwise than by the meaning of the words the Legislature used.

In *Scott* vs. *McNeal*, 154 U. S. 34, at page 45, this Court said:

> "Upon a writ of error to review the judgment of the highest court of a State upon the ground that the judgment was against a right claimed under the Constitution of the United States, this court is no more bound by that court's construction of a statute of the Territory, or of the State, when the question is whether the statute provided for the notice required to constitute due process of law, than when the question is whether the statute created a contract which has been impaired by a subsequent law of the State, or whether the original liability created by the statute was such that a judgment upon it has not been given due faith and credit in the courts of another state."

The objection to the notice in the case at bar is based upon the inadequacy of the statutory requirement which is

inadequate, even as construed by the State Supreme Court, as that Court did not construe the statute as requiring either that the character of the cause of action or the basis of the claim of the State should be stated in the notice.

The objection is also based upon the fact that in view of the character and purpose of the proceeding the publication three times in a newspaper published in Trenton, New Jersey, where none of the claimants resided or ever had resided as far as the record shows, was wholly inadequate.

The last known addresses of the persons whose property was escheated by the judgment of the trial Court were stated in the record of the case (R. 92-199) and are shown on page 5 hereof.

It is respectfully submitted that three weeks publication of the notice in a newspaper published in Trenton, New Jersey, was equivalent to no notice at all to most, if not all, of these individuals. It does not appear that any of them, except the comparatively few New Jersey residents, were ever in New Jersey or, in fact, had ever heard of the Trenton Times published in Trenton, New Jersey. There is no basis for the belief that anyone in New Jersey who might happen to see the notice would have any acquaintance with, or knowledge of any of these claimants.

Entirely aside from the question of the contents of the notice, the statutory requirements for publication and the publication actually made were a perfectly useless gesture which afforded none of the claimants the slightest opportunity to learn of the proceeding, or to appear and protect their interests.

Several of these claimants were the record holders of stock in the defendant Company, and each of them had claims for dividends which were enforceable against the

defendant Company, notwithstanding the period of time which had elapsed since they had communicated with the Company. In view of this fact, it is not realistic to suggest that by the judgment of the court they were not deprived of anything, for the effect of the judgment is to confiscate their stock and their claims against the Company for dividends without any real opportunity afforded them to assert their claims.

If any effort were really made to afford notice to these claimants by publication, the notice would have been published at the place of their last known addresses, for it is probable that even though they did not then reside there, some relative or acquaintance, if the notice came to his attention, would advise them of the pendency of the proceeding.

In *Cunnius vs. Reading School District*, 198 U. S. 458, cited in *Mullane* vs. *Central Hanover Bank & Trust Company*, 339 U. S. 306, the statute required that a notice be inserted for two successive weeks in a newspaper published in the county and also, when practicable, in a newspaper published at or near the place beyond the state where, when last heard from, the supposed decedent had his residence.

The mere fact that publication of a notice much better designed to reach the claimants might involve considerable expense is no adequate reason for failure to require such publication. The state has no interest in the property sought to be escheated. Its purpose is solely to enhance its revenues. The expense which might be involved in publishing adequate notice does not make the requirements of due process of law inapplicable. A notice which, as in the case at bar, is a mere gesture is equivalent to no notice.

As was well stated in the dissenting opinion of Chief Justice Vanderbilt, (R. 264):

"This notice, moreover, need only be published once a week for three successive weeks in a single newspaper, and the owner to whom it is supposedly directed must file his claim five days before the time fixed for the hearing. Such notice is wholly inadequate when it is borne in mind that the very purpose of the act is to extinguish the rights of persons whose names or whereabouts are unknown. Neither the information contained in the notice, nor the publication of it, nor the time allowed to file a claim are reasonably calculated to inform the owners of the property of the impending proceedings and to give them an opportunity to appear and protect their interests. The notice required by the Statute is, in effect, no notice at all to anyone."

The New Jersey Supreme Court relied in its majority opinion on the recent decision of this court in *Mullane* vs. *Central Hanover Bank & Trust Co.*, 339 U. S. 306.

We respectively submit that the State Court misapprehended the legal effect of such decision.

In the case cited, this court said at page 583:

"But when notice is a person's due, process which is a mere gesture is not due process. The means employed must be such as one desirous of actually informing the absentee might reasonably adopt to accomplish it. The reasonableness and hence the constitutional validity of any chosen method may be defended on the ground that it was in itself reasonably certain to inform those affected, compare Hess *v.* Pawloski, 274 U. S. 352, 71 L. Ed. 1091, 47 S. Ct. 632, with Wuchter *v.* Pizzutti, 276 U. S. 13, 72 L. Ed. 446, 48 S. Ct. 259, 57 ALR 1230, or, where conditions preclude reasonable certainty of actual receipt of notice, and the form chosen is not substantially less likely to bring home notice than other of the feasible and customary substitutes."

The published notice in the *Mullane* case did not contain the names of the persons having a contingent interest in the trusts whose names and addresses were then unknown to the trustee.

It appears from the opinion in the *Mullane* case that this Court in determining that the inclusion of such names in the notice of settlement of account was not necessary, had regard to the nature of the proceeding and to facts in that case not present in the case at bar.

First, notice of the manner in which notice would be given of the settlement of the account had previously been given, pursuant to the statute, to the persons interested in each trust who were of full age and sound mind and whose names and addresses were then known to it. Second, the persons whose addresses were known, to whom notice was required by this Court to be mailed by the trustee, had a common interest in the due administration of the trust, with those to whom notice was not required to be mailed. Third, the statute provided for the appointment of a guardian for those having an interest in the income and who did not appear, and also a guardian for those having an interest in the corpus who failed to appear, so that all interests would be adequately protected. Fourth, it was essential that the accounts of the trustee be settled, and the expense of ascertaining the names and addresses of everybody then having a vested or contingent interest in the trust would have been very great, and, upon being charged to the trust, would have reduced the interests therein of the beneficiaries without any resulting benefit to them.

The case at bar differs widely from the *Mullane* case. First, none of the claimants whose property was escheated by the judgment have any interests in common. Each has a wholly independent claim. Second, the proceeding in the

case at bar was in no respect instituted for the benefit of the claimants. Its purpose was to enhance the revenues of the state by confiscating their property.

At the time of the institution of the proceeding each of the claimants had a vested right in their respective claims to shares of capital stock and dividends or to dividends alone, as the case may be, which right was enforceable against the appellant at any time. Their failure to assert their right to dividends or to keep the corporation advised of their respective addresses created only a rebuttable presumption of abandonment. They were entitled to an opportunity to appear in the proceeding and to rebut this presumption.

Even if it be assumed that they had knowledge of the escheat statute which was enacted long after their claims arose or that they are chargeable with such knowledge, it cannot be presumed that they had or could, by reason of the notice published, have secured any knowledge of the institution of the proceeding or of the time and place of hearing. The statute and the judgment thereunder takes their property and vests it in the state without affording them any real opportunity, either to learn of the proceeding, or to appear and protect their rights.

If the legislature had designedly attempted to comply with the form of due process of law and to utterly ignore its substance in order that the property of the claimants might be confiscated, we can think of no procedure which would be better adapted to accomplish that purpose.

The State Supreme Court also cited, in support of its holding, the cases of *Hamilton* v. *Brown*, 161 U. S. 256, and *Christianson* v. *King*, 239 U. S. 356. In *Hamilton* v. *Brown*, which was a proceeding to escheat land located in the State of Texas, the statute required that a *scire facias* be issued to all persons named in the petition, if in

possession of or claiming the estate, requiring them to appear and show cause why it should not be vested in the state. The statute further required an order of notice to be published four weeks in a newspaper printed within the state, stating briefly the contents of the petition and requiring all persons interested in the estate to appear and show cause why the land should not be vested in the state. The mere recital of these statutory provisions shows a wide difference between the notice in the case cited and the notice required by the statute here under consideration.

In *Christianson* v. *King County*, which was also a case of escheat of land, the petition showed that no heirs at law of the decedent had been found after diligent search. The decree was made after publication of a notice for four weeks in a local newspaper. The form of notice does not appear in the opinion and was not considered by the court as apparently no objection thereto was made. Neither of these cases was a confiscation case. They were both common law escheat cases in which the state takes the property because it has no other owner.

In neither of these cases did the state attempt to confiscate property simply because the owner thereof had failed to claim it for a designated period or had failed to keep a particular corporation advised of his address.

The State Supreme Court also cited on this point the decision of this Court in *Security Savings Bank* vs. *California*, 263 U. S. 282, and *Anderson National Bank* vs. *Luckett*, 321 U. S. 233.

The procedure in *Security Savings Bank* vs. *California* differed widely from the procedure in the case at bar. Each depositor was made a party to the proceeding. The summons naming each party was published for four weeks in a newspaper of general circulation published in Sacramento County. With the summons a notice also was pub-

lished requiring all persons, other than the named defendants, to appear and show cause why the moneys involved in the suit should not be deposited in the State Treasury. This procedure is set forth at pages 284 and 285 of the opinion of this Court and more fully in the opinion of the Supreme Court of California, 186 Cal. 419, 199 P. 791.

It also appears in the opinion of this Court at page 289 *et seq.* that a statute of California required the annual publication in a newspaper published in the city in which the bank was located of a statement showing the amount of each deposit therein, the name and last known residence of each depositor and the fact of his death, if known, in all cases where the depositor had not made a deposit or withdrawal for ten years next preceding unless the depositor was known to be living or the deposit was less than $50.00.

This Court said:

> "The fact that, after nine, or more, such publications in the local newspaper, a deposit remains unclaimed, affords the legislature some basis for thinking that the further publication provided for in these proceedings would be more apt to accomplish the purpose of actual service, if made in the county in which the state capital is located."

It does not appear in the opinion in the *Security Savings Bank* case that the last known addresses of the depositors were stated in the record, or that any of such last known addresses were in places remote from California.

In *Anderson National Bank* vs. *Luckett* it did not appear that the last known addresses of the depositors, whose deposits were unclaimed, were in places remote from the location of the bank. The procedure under consideration in that case did not divest the interests of the depositors. It

only provided for the payment of the deposits into the State Treasury, there to be held subject to the claim of the depositors. This Court expressly refrained from passing upon the validity of a proceeding to be subsequently instituted for the escheat of the deposits upon proof of actual abandonment.

We concede that this Court is reluctant to decide that the publication of a notice sustained by the highest Court of the State is inadequate because of failure to comply with the due process requirement. Unquestionably this Court has the power so to do. See *Roller* vs. *Holly*, 176 U. S. 398.

In *Bellingham Bay etc. Co.* vs. *New Whatcom*, 172 U. S. 314, the question involved was whether the publication of a notice of re-assessment of property in New Whatcom for an improvement, which notice was published for three days and required any property owner who wished to appear ten days from the last publication, was sufficient. The owner of property which questioned the adequacy of the notice had its principal office in the City of New Whatcom. In holding the notice sufficient this court said, at page 318:

> "It may be that the authority of the legislature to prescribe the length of notice is not absolute and beyond review, but it is certain that only in a clear case will a notice authorized by the legislature be set aside as wholly ineffectual on account of the shortness of time. The purpose of notice is to secure to the owner the opportunity to protect his property from the lien of the proposed tax or some part thereof. In order to be effectual it should be so full and clear as to disclose to persons of ordinary intelligence in a general way what is proposed. If service is made only by publication, that publication must be of such a character as to create a reasonable presumption that the owner, if present and taking ordinary care of his property, will receive the infor-

mation of what is proposed and when and where he may be heard. And the time and place must be such that with reasonable effort he will be enabled to attend and present his objections."

The above recited quotation is just as applicable to publication of a notice at a place and in circumstances where it is practically certain that the notice will never come to the attention of the persons interested as it is to a publication for an inadequate period.

The fact that under Section 18 of the Act any claimant who can satisfy the Court that he had no actual knowledge of the escheat proceedings has the right within two years after the entry of the judgment to apply to the Court to reopen the judgment of escheat does not validate the proceeding. If he succeeds in opening the judgment, he will receive not his shares of stock but only a part of the proceeds of the sale thereof. The amount received by the claimants is reduced by the 5% paid to the escheator and by the allowance made by the Court to the counsel for the State and also by any other expenses incurred by the State in the prosecution of the proceeding. Section 9 of Act of 1946, appendix page 5a.

We respectfully submit that because of the inadequacy of the notice the judgment of escheat deprives the claimants of their property without due process of law and that because of this fact, the statute and the judgment rendered thereunder are invalid and the judgment affords no protection to the appellant with respect to these claims.

The statute and the judgment thereunder impair the obligation of the contracts which are the basis of the claims of the respective stockholders and claimants in violation of Article I, Section 10, Paragraph 1, of the Constitution of the United States.

The only factual basis for the claimed escheat in the case at bar is:

(1) That the dividends have not been claimed for fourteen years; and

(2) That the whereabouts of the owners of record of the dividends and the whereabouts of the owners of record of shares of stock have been unknown for the period of fourteen years.

Prior to the enactment of said statute, the state had no power to deprive the owners of such property of the right to enforce their contracts against the appellant. Such owners could enforce such rights as stockholders not only in the State of New Jersey but also in other jurisdictions where the appellant was subject to suit. The statute and the judgment thereunder deprive them of these rights, and substitutes for the remedies which they previously had only a theoretical opportunity to appear in the proceedings above mentioned in New Jersey at the time fixed by the Court to rebut the presumption of abandonment raised by their failure to collect their dividends or to keep the appellant informed of their respective addresses. The opportunity is only theoretical, because the notice is published in such a manner as to make it certain that most, if not all of the claimants, will not learn of the pendency of the proceeding and will have no opportunity to assert their rights.

The right to apply to the Court to open the judgment within two years after its entry does not make the substi-

tuted remedy at all adequate. In the first place the stockholders are under no obligation either to collect their dividends within any specified time or to advise the appellant of their respective addresses, and if they delay any such action for two years after the entry of the judgment, they will not learn of it until it is too late to attempt to reopen it. In the next place, even if the judgment is reopened, the stockholders do not receive their stock or even the entire proceeds of its sale. Neither do they receive all of the dividends to which they are entitled.

We respectfully submit that the statute and the procedure thereunder resulting in the judgment under appeal, seriously impair and in fact destroy the contract rights of the stockholders.

In *Security Savings Bank* vs. *California*, 263 U. S. 282, this Court held that a statute escheating bank deposits did not impair the contract rights of the bank and in *Anderson National Bank* vs. *Luckett*, 321 U. S. 233, this Court held that a staute which required the bank to turn over unclaimed bank deposits to a state official of Kentucky, the deposit to be held for the benefit of the depositors, impaired no contract right of the bank.

Our contention is that the statute under consideration in this case and the judgment entered thereunder does not protect the appellant from the claims of its stockholders whose stock and dividends are escheated by the judgment because, as to them, the statute authorizing the judgment and the judgment entered thereunder are invalid as impairing the obligation of their contracts.

In *Connecticut Mutual Life Insurance Company* vs. *Moore* 333 U. S. 541, this Court held that the statute of New York involved in that case did not impair the obligation of contracts when its operation was confined, as this

Court confined it. That statute, however, differs from the statute under consideration in the case at bar because the person entitled to the proceeds of the insurance policies could at any time recover from the State the amount of their claims, and even the insurance company, if it subsequently paid the amount of the policy to the beneficiary, could recover from the state. The small deduction from the amount of the claim imposed by the New York statute was insignificant as compared with the deductions permitted by the New Jersey statute.

The New York statute was a conservation statute and the deduction was by way of compensation for the care by the state of the money belonging to the beneficiary. The statute involved in the case at bar is not a conservation statute, the judgment divests the interest of the stockholders in the property and vests the title thereto in the state. The deductions from the amount to be recovered if the stockholder succeeds in having the judgment opened under sec. 18 of the Act consist of 5% paid to the escheator, the fees allowed by the court to the counsel for the state and all expenses incurred by the state in confiscating the property which, in fact, has not been abandoned. Such expenditures were not made for the benefit of the stockholder but solely for the purpose of enhancing the revenues of the state.

With respect to these deductions the language of Mr. Justice Holmes in *Escher* vs. *Woods*, 281 U. S. 379, with reference to the deductions to be made from the amount to be paid to a claimant whose property had been wrongfully seized under the Trading with the Enemy Act and who had established his right to the property are applicable. In the case cited Mr. Justice Holmes said at pages 304 and 385

> "It would be extraordinary if the charges incident to a seizure that the law did not intend the Custodian

> to make and a possession that the law requires him to surrender, were to be imposed upon the owner whose interests were sacrificed up to the moment of restitution. It seems to be going far enough to require him to bear the loss that he has suffered, without compelling him to pay the Government for its outlay in doing him harm. See Hobbs v. McLean, 117 U. S. 567, 582."

In *Hendrickson* vs. *Apperson*, 245 U. S. 105, 113, this Court said:

> "The obligation of a contract, in the constitutional sense, is the means provided by law by which it can be enforced,—by which the parties can be obliged to perform it. Whatever legislation lessens the efficacy of these means impairs the obligation."

See, also: *Bronson* vs. *Kinzie*, 1 Howard 311; *Von Hoffman* vs. *City of Quincy*, 4 Wallace 535; *Edwards* vs. *Kearzey*, 96 U. S. 595; *Seibert* vs. *Lewis*, 122 U. S. 284; *W. B. Worthen Co.* vs. *Thomas*, 292 U. S. 426.

As above stated, the claimants, prior to the enactment of this statute and the rendering of the judgment in this cause, had the right to enforce their contracts in the State of New York and as to some of them wherever the appellant may be served with process.

Under the statute and the judgment rendered in this cause they are deprived of all remedy for the complete enforcement of their contracts, because they did not appear in the New Jersey Court at the time stated in the notice. The statute, even as construed by the State Supreme Court, fails to require an adequate notice, and publication, as required by the statute, was in the circumstances of the case at bar but an idle gesture practically equivalent to no notice at all.

We respectfully submit that this legislation not only lessens the efficacy of the means of the claimants for enforcing their contracts but practically deprives them of their rights thereunder.

Neither the dividends on shares of capital stock nor the shares of capital stock escheated by the judgment had a situs in New Jersey for the purpose of escheat, and irrespective of such situs, neither such shares nor dividends were lawfully seized in the proceeding.

Section 7 of the Act of 1946, as amended in 1947, N. J. R. S. 2:53-21 (Appendix, page 2a), provides that the proceedings (for escheat under the Act) in the Court of Chancery shall be by petition in the name of the State of New Jersey, which petition shall set out that certain personal property therein designated has escheated to the State of New Jersey under the provisions of such Act and that the defendant named in such petition has custody or possession of such personal property.

Personal property is defined in Section 1 of the Act (Appendix, page 1a) N. J. R. S. 2:53-15 and includes moneys, negotiable instruments, choses in action, interest, debts or demands due to the escheated estate, stocks, bonds, deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property, except certain excepted property not here material. The petition filed in the case at bar alleged in paragraph II that the defendant had in its "custody or possession" certain personal property which had escheated to the State of New Jersey, that such personal property consisted in the main of unclaimed cash dividends on its own stocks, stock dividends, stocks and bonds and interest on such bonds, debentures and other escheatable personal property (R. 1). Upon

the filing of the petition an order was issued that the "defendant retain in its custody or possession such escheatable personal property as it now has in its custody or possession until the further order of this Court" (R. 7).

The appellant admitted in its answer that its books of account showed that certain dividends on its stock and certain other claims against it had not been claimed by the persons entitled thereto fo. fourteen years and that it had no certain knowledge as to the present address of the record owners of certain shares of its outstanding capital stock. Except as above admitted, it denied paragraph 2 which was a denial that it had the custody or possession of any of the property specified in the petition (R. 8).

The only proof in the case is embodied in the stipulation (R. 60-206). This shows that the only property involved in the proceeding consists of (1) shares of the capital stock of the appellant, the whereabouts of the record owners of which had been unknown to appellant for fourteen years and (2) dividends and other choses in action which had been unclaimed for fourteen years. The State Supreme Court determined that all claims which were barred by the statute of limitations were not escheatable under the act. It held however that claims for dividends were not so barred (R. 257). The only claims covered by the judgment, as modified by the State Supreme Court are the claims of persons named in the published notice (R. 55-59) which include only claims for shares of common stock and claims for dividends (R. 262).

The appellant has had no place of business in New Jersey except its statutory registered office and has owned no tangible property in New Jersey since 1927 (R. 90). The Guaranty Trust Company of New York, a bank located and doing business in New York, is and since 1918 has been the transfer agent for the capital stock of the appellant (R. 67).

The claims for stock and dividends are, therefore, based upon contracts not made in New Jersey and not to be performed in said state. The last known address of one of the record owners of the shares of stock included in the judgment was in the State of New York. The last known address of one of such record owners of stock was in New Jersey. The last known addresses of the other record owners of shares of stock were in various states of the United States and in Mexico (R. 198-199).

These facts suggest two questions:

First, since the proceeding is a proceeding *quasi in rem* and the only basis of the Court's jurisdiction over the property is a seizure of such property in the custody or possession of the appellant, did the Court acquire any jurisdiction over the property in question since none of it was in the custody or possession of the appellant?

The second and more fundamental question is whether, in view of the facts above stated, any of the property covered by the judgment has a *situs* in New Jersey for the purpose of *escheat*.

The appellant had neither possession nor custody of any of the property included within the judgment as modified by the Supreme Court.

The proceeding is *quasi in rem*. See opinion of State Supreme Court (R. 259). The State acquired no jurisdiction over the property of the nonresidents included within the judgment, unless such property was seized by it at the institution of the proceeding.

The only property which the State was authorized to seize by the Act and the only property which it attempted to seize was property in the possession or custody of the appellant. As above stated, the appellant denied that it

had possession or custody of any of the property mentioned in the petition. The claims for dividends were either claims for debts due from the appellant or claims against the trust fund for the payment of dividends which the State Supreme Court held had been established when the Company, upon the declaration of dividends, deposited the amount thereof prior to 1918 in the National City Bank of New York and subsequent thereto in the Guaranty Trust Company of New York, in which last mentioned bank the deposit still remains (R. 72, 253).

The decision of the State Supreme Court was based upon the view that the owners of the unclaimed dividends had a claim against this trust fund which was not barred by the Statute of Limitations (R. 252-257).

The appellant had neither the custody nor possession of debts due by it to others.

In *State Tax on Foreign-held Bonds*, 15 Wall. 300, 320, this court said:

> "But debts owing by corporations, like debts owing by individuals, are not property of the debtors in any sense; they are obligations of the debtors, and only possess value in the hands of the creditors * * *. All the property there can be in the nature of things in debts of corporations, belongs to the creditors, to whom they are payable, and follows their domicile, wherever that may be."

It is unrealistic to hold that a corporation which owes a debt to a third party has possession or custody of the debt. It is equally unrealistic to say that a trust fund established in New York and there on deposit in a New York bank is property in the possession or custody of the appellant in New Jersey. The trust fund may only be reached by proceedings in the jurisdiction where it has been established and is located.

The attempted seizure of property in the possession or custody of the appellant is not a valid seizure of debts owing by the appellant to nonresidents or of a trust fund established in New York and there remaining.

The question whether any of the property had a situs in New Jersey for the purpose of escheat will be considered under our next heading. The contention here made is that no property was seized by the petition and order even if the power existed to seize such property for the purpose of escheat.

In *Phoenix Bank* vs. *Risley*, 111 U. S. 125, the Government of the United States filed a libel of information against "the estate, property, money, stocks, credits and effects to wit against $15,000 more or less belonging to the Bank of Georgetown, a corporation doing business at Georgetown in the State of South Carolina, which said $15,000 is now in cash and is now on deposit in the Phoenix Bank, a corporation doing business in the City of New York, all of which are owned by and belonging to and are the property of the said Bank of Georgetown." The Bank of Georgetown had a deposit in the Phoenix Bank. This Court held, however, that the libel and the proceedings thereunder had failed to seize the deposit because the deposit was merely a credit which the Bank of Georgetown had with the Phoenix Bank; that the Phoenix Bank had no property belonging to the Georgetown Bank.

The Court, after stating the facts, said at page 133:

> "It does not appear to us that any seizure or attachment of the debt due by the Phoenix Bank to the Georgetown Bank was made, by which the District Court, if it intended to do so, obtained jurisdiction to confiscate it."

It is, we respectfully submit, true that the shares of stock included within the judgment were not in the possession or custody of the appellant. The judgment states that the certificates for such stock were not in the possession or under the control of the appellant (R. 234).

It has long been established that the owner of a certificate of stock issued by the corporation to him or acquired by him by a valid transfer of the certificate is the owner of the stock. The appellant has possession and custody of its property, none of which is in New Jersey (R. 90) but it has neither the possession nor custody of the shares of capital stock issued by it which are in the custody or possession of the stockholders. These shares represent claims against the corporation, enforceable by the stockholders. The certificates themselves have many of the attributes of tangible property.

All of the certificates of capital stock included within the judgment are certificates for shares having a par value of $25.00 each and were issued by the corporation in 1920 or subsequent thereto, as the corporation had no outstanding certificates of stock having that par value prior to 1920 (R. 60-61).

In 1916 New Jersey adopted the Uniform Stock Transfer Act, N. J. R. S. 14:8-29 et seq.

Section 29 of this Act (R. S. 14:8-46) provides as follows:

> "The provisions of this article apply only to certificates issued after July fourth, one thousand nine hundred and sixteen."

The Act is, therefore, applicable to the certificates involved in this cause.

Section 4 of the Act (R. S. 14:8-30) provides as follows:

> "The title of a transferee of a certificate under a power of attorney or assignment not written upon the certificate, and the title of any person claiming under such transferee, shall cease and determine if, at any time prior to the surrender of the certificate to the corporation issuing it, another person, for value, in good faith, and without notice of the prior transfer, shall purchase and obtain delivery of the certificate with the indorsement of the person appearing by the certificate to be the owner thereof, or shall purchase and obtain delivery of the certificate and the written assignment or power of attorney of such person, though contained in a separate document."

Section 13 of said Act (R. S. 14:8-39) provides as follows:

> "No attachment or levy upon shares of stock for which a certificate is outstanding shall be valid until such certificate be actually seized by the officer making the attachment or levy, or be surrendered to the corporation which issued it, or its transfer by the holder be enjoined. Except where a certificate is lost or destroyed, such corporation shall not be compelled to issue a new certificate for the stock until the old certificate is surrendered to it."

In view of the character of a certificate of stock, as property, it cannot be said that a seizure of property in the possession or custody of the defendant was any seizure at all of shares of stock owned by nonresidents, the certificates for which were neither in the custody nor possession of the appellant.

The shares of capital stock and dividends thereon had no *situs* in New Jersey for the purpose of escheat.

It is, we respectfully submit, clear that unless the State lawfully seized the claims for dividends of claimants who, so far as the record shows had never been in New Jersey, and the shares of stock of such claimants, the judgment which requires the appellant to pay these claims to the State and to issue shares of stock to the State in lieu of the shares owned by the nonresidents, the certificates for which are not within the possession or control of the appellant and not within the State so far as the proof shows, the appellant is not protected from liability to these claimants and stockholders and the statute which authorizes the judgment and the judgment entered thereunder would deprive the appellant of its property without due process of law.

The State Supreme Court sustained the validity of the statute and the judgment entered thereon, saying that the sovereignty in which the corporation lives and has its being has dominion over its debtor obligations through its control of the corporation (R. 262).

The State Supreme Court, therefore, held that the State of New Jersey has the power to confiscate rights owned by nonresidents, based upon contracts made with the appellant outside of the State of New Jersey and to be performed and enforceable outside of the State. This holding was based solely upon the fact that the appellant is a New Jersey corporation.

The New Jersey Supreme Court cited and relied upon: *Security Savings Bank* vs. *State of California*, 263 U. S. 282; *Anderson National Bank* vs. *Luckett*, 321 U. S. 233; *State Tax Commission* vs. *Aldrich*, 316 U. S. 174; *Northwest Airlines* vs. *Minnesota*, 322 U. S. 292; and *Connecticut Mutual Life Insurance Company* vs. *Moore*, 333 U. S. 541.

All of these cases are distinguishable from the case at bar. In fact, the case last cited is inconsistent with the decision of the New Jersey Supreme Court.

In *Security Savings Bank* vs. *State of California, Supra,* this Court sustained a statute of California which escheated unclaimed deposits in a Calfornia savings bank. In determining that the State of California had jurisdiction to escheat such deposits, this Court said at page 285:

> "The unclaimed deposits are debts due by a California corporation with its place of business there. *State* v. *Anglo & London Paris National Bank,* 186 Cal. 746, 753; *State* v. *Security Savings Bank,* 186 Cal. 419, 423. The debts arose out of contracts made and to be performed there. *Farmers & Merchants Bank* v. *Federal Reserve Bank,* 262 U. S. 649, 660. Thus the deposits are clearly intangible property within the State. Over this intangible property the State has the same dominion that it has over tangible property."

In *Anderson National Bank* vs. *Luckett, supra,* this court said at page 241:

> "The deposits are debtor obligations of the bank, incurred and to be performed in the state where the bank is located, and hence are subject to the state's dominion."

Citing, among other cases, *Security Savings Bank* vs. *California, supra.*

In the *Luckett* case the statutory provision there sustained did not confiscate the claims of the depositors. It merely provided for the transfer of the custody of the deposits to an officer of the State to remain subject to the claims of the depositors, unless and until an escheat

proceeding should be instituted in which proof of actual abandonment was required as a condition of escheat.

Attention is called to the fact that the jurisdiction to escheat in the *Security Savings Bank* case was based not only upon the fact that the bank was a corporation of California but that its place of business was in that state and that the debts arose out of contracts made and to be performed there and that this Court relied upon the same facts in the *Luckett* case. An important distinction between the two decisions above mentioned and the case at bar is not only that the contracts were made in the State in question but also that the assets of each of the banks involved were actually in the State in which the bank was located and the judgment could be enforced only in such State. In the case at bar the appellant has no tangible assets in New Jersey. A judgment against it could not be collected without going to the jurisdiction in which its assets are located.

The basis of the decision in *State Tax Commission* vs. *Aldrich, supra,* is that the transfer of shares of capital stock from the dead to the living depends upon and involves the law of the domicile of the corporation, and also the law of the domicile of the decedent, even though such transfer might lawfully be made in the state in which the decedent was domiciled at the time of his death. The governing principle in the case cited affords no support to the confiscation of shares of stock of nonresidents by the state of the domicile of the corporation. A very different situation would have been presented in the *Aldrich* case if the State of Utah, where the corporation was domiciled, and the State of New York, where the certificates were located, had each provided for the confiscation of the shares of stock upon the death of the decedent, as well as for the confiscation of all unpaid dividends thereon.

In *Northwest Airlines* vs. *Minnesota, supra,* this Court sustained a property tax imposed under the laws of Minnesota on all of the airplanes of Northwest Airlines, which was a Minnesota corporation, having its principal place of business in St. Paul, upon the ground that, in the circumstances present in that case, the airplanes were tangible property within the State of Minnesota. This Court said at page 294:

> "Minnesota is here taxing a corporation for all its property within the State during the tax year no part of which receives permanent protection from any other State. The benefits given to Northwest by Minnesota and for which Minnesota taxes—its corporate facilities and the governmental resources which Northwest enjoys in the conduct of its business in Minnesota—are concretely symbolized by the fact that Northwest's principal place of business is in St. Paul and that St. Paul is the 'home port' of all its planes. The relation between Northwest and Minnesota—a relation existing between no other State and Northwest—and the benefits which this relation affords are the constitutional foundation for the taxing power which Minnesota has asserted."

Mr. Justice Jackson wrote a concurring opinion in which he said at page 305:

> "Domicile of an owner is a usual test of power to tax intangibles, but has not generally been a conclusive test of taxability of tangible property situated elsewhere. If we should suppose that this corporation had a Delaware charter instead of a Minnesota one, and had nothing in Delaware except its agent, but operated otherwise in Minnesota exactly as it has done, would we say that the entire right to tax the fleet moved to Delaware because it was the corporation's state of domicile? I do not

> think that domicile, in the facts of this case, is decisive of Minnesota's claim to tax the tangible property of the company wherever situate."

The basis upon which tax laws are sustained as valid is well stated in *Union Refrigerator Transit Company* vs. *Kentucky*, 199 U. S. 194, 202, as follows:

> "The power of taxation, indispensable to the existence of every civilized government, is exercised upon the assumption of an equivalent rendered to the taxpayer in the protection of his person and property, in adding to the value of such property, or in the creation and maintenance of public conveniences in which he shares, such, for instance, as roads, bridges, sidewalks, pavements, and schools for the education of his children."

While the case above cited involved the taxation of tangible property, the principle of the above recited excerpt from the opinion is applicable to the taxation of intangible property.

Intangile property may have a *situs* for the purpose of taxation at the same time in more than one jurisdiction, because both states afford protection and benefits to the property taxed and to the taxpayer who is the owner thereof. The principle which sustains such double taxation has no application to escheat because by the escheat the owner of the intangible is deprived of his entire interest therein.

The decision of this Court in *Connecticut Mutual Life Insurance Co.* vs. *Moore, supra,* not only affords no support to the decision of the State Supreme Court but, in fact, supports a result directly contrary to such decision. In the case last cited this Court held that insurance companies incorporated under the laws of states other than the State of New York but doing business in such state could law-

fully be required by a statute of New York to pay over to that state the proceeds of insurance policies unclaimed for a designated period, where the policy was issued for delivery in New York upon the life of a person then resident therein, if the insured was a resident of New York and the beneficiary also was a resident of such State at the maturity of the policy. With respect to the jurisdiction of New York this Court said at page 548:

> "The question is whether the State of New York has sufficient contacts with the transactions here in question to justify the exertion of the power to seize abandoned moneys due to its residents."

It was urged by the appellants in the case last cited that only the state of incorporation of the insurance companies had the power to escheat unclaimed moneys, but this contention was not sustained. This Court, however, did not pass upon the validity of the New York statute in instances where the insured persons, after delivery of the policy, ceased to be residents of New York or where the beneficiary was not a resident of New York at the maturity of the policy. This Court in the case cited did not in terms decide that the proceeds of abandoned policies which this Court determined could lawfully be claimed by New York could not also be claimed by the state of the domicile of the corporation.

Since, however, there may be but one escheat of the same property, the necessary result of this decision is that the proceeds of insurance policies issued by foreign insurance companies which New York had the power to escheat could not lawfully be also escheated by the state of the domicile of the corporation.

It was pointed out by Mr. Justice Jackson in his dissenting opinion that one of the insurance company plain-

tiffs was a Pennsylvania corporation and that under the law of Pennsylvania, the proceeds of the same policies which New York claimed were escheatable in that State and that the effect of the prevailing opinion of the Court was to strike down the right of Pennsylvania.

Applying the doctrine of *Connecticut Mutual Life Insurance Company* vs. *Moore, supra,* to the facts of the case at bar, the contracts upon which the claims in this case are based were made in the State of New York to be performed in the State of New York by a corporation having its executive offices in New York, which corporation has no place of business in New Jersey and owns no tangible property therein. The claimants who were named in the published notice of hearing (R. 56-58) are the only claimants whose property is escheated by the judgment of the Trial Court, as modified by the Supreme Court (R. 262). The last known addresses of six of these claimants were in the State of New York (R. 56-58). There is no evidence in the case that they do not still reside in that State. The last known address of only one of these claimants was in New Jersey (R. 57). The decision in *Connecticut Mutual Life Insurance Company* v. *Moore* supports the view that as to any claimant now resident in New York, New York has the right to escheat the claims, and if New York has such right, New Jersey has it not.

If New Jersey has no lawful power to escheat these claims, the judgment in this cause is *coram non judice* and affords no protection to the appellant from liability to the claimants and to compel the appellant to transfer these claims to the state would take its property without due process of law.

The fact that the appellant is a corporation of New Jersey does not confer upon New Jersey exclusive jurisdiction over the shares of its stock. The stockholders whose

claims are escheated by the judgment in the case at bar may assert their claims to the stock in New York or in any other jurisdiction where the corporation is suable unless barred by the judgment in this cause.

In *Direction Der Disconto-Gesellschaft* vs. *United States Steel Corporation* (Dist. Ct., S. D. N. Y., 1924), 300 Fed. 741, suit was instituted by the plaintiffs against United States Steel Corporation and the Public Trustee of England to compel the United States Steel Corporation, a corporation of New Jersey, to establish the plaintiff's title to certain shares of stock of the Steel Corporation, which title that corporation had refused to recognize because of the claims of the Public Trustee of England.

The plaintiffs were two German corporations, one of which maintained a local branch in the City of London at the outbreak of World War I. Each of them had owned certificates for shares of stock of the United States Steel Corporation. The registered owners of the shares as they appeared on the books of the corporation and in the certificates of stock were British subjects domiciled in England. Each certificate, however, had been endorsed in blank. The certificates had been seized by the Public Trustee of England as enemy alien owned property. They had been issued prior to the enactment of the Uniform Stock Transfer Act by the legislature of New Jersey and were therefore not subject thereto. The Court held that under the laws of New Jersey title to the shares of stock was in the owner of the duly endorsed certificates and that under the law of England the Public Trustee secured the title to the certificates by the seizure thereof. At page 745 the court said:

> "It is scarcely necessary to say that, if the shares are identified with the certificates, they pass

as chattels, and the law of the place of transfer controls, certainly when there is a local statute which is relevant. *Green* v. *Van Buskirk*, 5 Wall. 307, 18 L. Ed. 599. There are many cases which do so identify them, and perhaps these should serve, without more." Citing cases.

The court referred to *Jellenik* vs. *Huron Copper Mining Company*, 177 U. S. 1, as a case often cited to show that corporate shares can have no *situs* except at the domicile of the corporation. In reference to this case the court said, at page 746:

> "It holds nothing of the sort; only that they do have a *situs* there, which is a very different matter. In truth, corporate shares have a *situs* in both places, so long as we insist upon applying to them a word drawn from the law of land and chattels, which must be in a single place at a time."
>
> • • • • • •
>
> "Similarly, where the shareholder is, there the share may be transferred by compulsion, and perhaps, since he is subject to compulsion, by decree *in rem*, even when he does not obey."

The *Disconto* case was affirmed by this Court in an opinion written by Mr. Justice Holmes, 267 U. S. 22. In the course of the opinion Justice Holmes refers to the opinion of the District Court as leaving nothing to be added.

Mr. Justice Holmes said at page 28:

> "The appellants, starting from the sound proposition that jurisdiction is founded upon power, overwork the argument drawn from the power of the United States over the Steel Corporation. Taking the United States in this connection to mean the total powers of the Central and the State Governments, no doubt theoretically it could draw a line of

fire around its boundaries and recognize nothing concerning the corporation or any interest in it that happened outside. But it prefers to consider itself civilized and to act accordingly. Therefore New Jersey having authorized this corporation like others to issue certificates that so far represent the stock that ordinarily at least no one can get the benefits of ownership except through and by means of the paper, it recognizes as owner anyone to whom the person declared by the paper to be owner has transferred it by the indorsement provided for, wherever it takes place. It allows an indorsement in blank, and by its law as well as by the law of England an indorsement in blank authorizes anyone who is the lawful owner of the paper to write in a name, and thereby entitle the person so named to demand registration as owner in his turn upon the corporation's books. But the question who is the owner of the paper depends upon the law of the place where the paper is."

In *Wirt Franklin Petroleum Corporation* vs. *Gruen*, 139 Fed. 2d, 659, C. C. A. 5th, it was held that the Federal District Court in Texas had jurisdiction of a proceeding to garnishee shares of stock of a corporation chartered under the laws of Delaware where the stock books and bulk of corporate property and business were located in Texas. The Court said in part at page 660:

"Indeed, where a domicile in fact is shown to exist, corporate convenience is subserved by litigation where the corporation actually is, rather than where its fictitious citizenship exists. It is also true that the forum of the domicile in fact has a better claim to jurisdiction over the *res* than has the domicile of charter grant, because the stock books and the bulk of the corporate properties and enterprises are there."

In *Klein* vs. *Wilson & Co.* (Dist. Ct. N. J., 1924), 7 Fed. (2d) 769, aff'd on opinion below (C. C. A. 3rd, 1925), 7 Fed. (2d) 777, a bill of complaint was filed by a stockholder of Wilson & Co., a New York corporation, for the appointment of a receiver of that corporation on the ground of insolvency. Wilson & Co. had no assets in New Jersey but it owned all of the capital stock of Wilson & Co., a New Jersey corporation, which had property and assets in New Jersey. The certificates for such stock were in the possession of the New York corporation in New York. The court held that the New York corporation had no assets in New Jersey which would warrant the appointment of a receiver in that state, that the *situs* of the stock of the New Jersey corporation was in New York where the certificates were held.

In *In re Rapoport's Estate* (Sup. Ct., 1947), 317 Mich. 291, 26 N. W. (2d) 777, cert. den. 332 U. S. 764, it was held that certificates of corporate stock, bonds and a bank account being a part of the estate of a decedent who died domiciled in California but which certificates and bonds at the time of his death were in Detroit, Michigan, and which bank account was in a Detroit bank, were property in the State of Michigan and subject to escheat by the State of Michigan the decedent having died intestate leaving no one capable of taking his estate. The litigation was between the California administrator and the administrator in Michigan.

As was said in *Miller* vs. *Kaliwerke Aschersleben Aktien-Gesellschaft*, 283 Fed. 746, (C. C. A. 2nd, 1922) at page 757:

> "It may be conceded that, if a corporation issues a certificate of stock, the general rule is that, so long as it is outstanding, it is a continuing affirma-

> tion that the person named therein is the owner of the number of shares specified therein and has a right to transfer the same, and that the corporation is estopped to deny the holder's right to make such transfer as against a bona fide purchaser; and it is settled that in this matter a voting trust certificate and a stock certificate do not differ."

This case arose under the Trading with the Enemy Act in which it was held that the Alien Property Custodian, proceeding under the Trading with the Enemy Act which was enacted under the constitutional war power, might seize shares of stock without seizing the certificate. The Court said that such a seizure would be valid. The Court said, however, at page 757:

> "The nonenemy bona fide holder, however, cannot be deprived of his property except by due process of law; and unless the acts of Congress have made ample provision for the protection of his rights the proceeding must fail."

The Court then referred to the fact that under Section 9 of the Trading with the Enemy Act, as amended by the Act of July 11, 1919, any person claiming an interest in the stock seized had a right to institute suit against the Government.

In *Garvan* vs. *Marconi Wireless Telegraph Co. of America,* 275 Fed. 486, (D. C. D. New Jersey, 1921), another case under the Trading with the Enemy Act, the Court said, at page 488:

> "Before outstanding certificates of stock may be cancelled and new ones issued in lieu thereof, in time of peace, a corporation is justified, both by reason and legislative enactment, to require the production of the old certificates. But the act under

which the Alien Property Custodian is proceeding is a war measure."

The war power of the Federal Government is much more extensive than the power of a State to confiscate property belonging to a nonresident simply because the nonresident has failed to claim his property, or to furnish to the corporation against which the claim may be asserted knowledge of his address.

It is well settled that neither the laws of a state nor a judgment entered under such laws has any operation beyond the boundaries of such state, except as required by the full faith and credit clause of the Federal Constitution and that such clause has no application to a judgment rendered by a Court which has no jurisdiction of the cause or of the parties.

It is also well settled that the claims of a nonresident of a state against a resident are not located within the state for all purposes: A state bankruptcy act which purports to discharge a resident of the state from all indebtedness upon the surrender of his property for distribution among his creditors does not discharge a debt due from the resident to a nonresident who does not present his claim and thereby submit it to the jurisdiction of the state court.

In *Ogden* vs. *Saunders*, 12 Wheat. 213, 358, *et seq.*, suit was instituted in Louisiana by a citizen of Kentucky against the plaintiff in error, a citizen of Louisiana. The defendant pleaded a certificate of discharge from all his debts under the insolvent laws of the State of New York where he then resided. Judgment was rendered for the plaintiff and the defendant appealed to this Court. The opinion of this Court was written by Mr. Justice Johnson and commences at page 358. At page 368 Justice Johnson said:

> "I, therefore, consider the discharge, under a state law, as incompetent to discharge a debt due a citizen of another State; and it follows that the plea of a discharge here set up, is insufficient to bar the rights of the plaintiff."

See also: *Boyle* vs. *Zacharie and Turner*, 6 Peters 348; *Denny* vs. *Bennett*, 128 U. S. 489; *Gilman* vs. *Lockwood*, 4 Wall. 409; *Clark* vs. *Williard*, 294 U. S. 211.

While it is conceded that the cases last above cited deal with a situation different from the case at bar, it is, nevertheless, true that in the case at bar the State is seeking to confiscate shares of stock and dividends of nonresident creditors and stockholders solely on the ground that the appellant against which the claims may be asserted is a corporation of New Jersey. The state, however, has no control over the nonresident creditors and stockholders and is not warranted in confiscating their claims, particularly since the situation is such that their claims are based upon contracts made outside of the state and are claims against a corporation having neither any property or any place of business in the state and may be asserted against the appellant in jurisdictions other than New Jersey.

Conclusion.

We respectfully submit that the judgment under review deprives the appellant of its property without due process of law. The judgment is invalid with respect to the stockholders and owners of the dividends, because the statute provides a procedure for a notice to the claimants which is equivalent to no notice at all and affords them no real opportunity to assert their rights; second, because the judgment impairs the obligation of their contracts by depriving them of all remedy thereunder, except a purely

theoretical remedy to appear and assert their rights in a proceeding of which they never can learn; third, because the State had no power to seize the property of these persons, and even though it had such power, the procedure adopted did not constitute a valid seizure.

While the amounts involved in the case at bar are relatively small, the case is a test case, the decision of which will govern more than one hundred other cases now pending in the Superior Court of New Jersey which have been instituted against other New Jersey corporations based upon the provisions of the New Jersey Escheat Act of 1946, as amended in 1947. These cases in the aggregate involve a very large sum of money and the individual claims in some of such cases are very substantial.

Respectfully submitted,

JOSIAH STRYKER,
Attorney of and Counsel for
Appellant.

APPENDIX.

1. "The term 'personal property' as used in this act shall mean and include moneys, negotiable instruments, choses in action, interest, debts or demands due to the escheated estate, stocks, bonds, deposits, machinery, farm crops, live stock, fixtures, and every other kind of tangible or intangible property and the accretions thereon, up until the time of the filing of the bill of escheat, but shall not mean and include real property or property in the custody of any court in this State, nor any personal property covered by chapter one hundred ninety-nine of the laws of one thousand nine hundred and forty-five.

"Unless a different meaning clearly appears from the context, the word, phrase or term 'owner', 'beneficial owner', 'person', 'person having custody or possession', 'person having any interest', 'person entitled to', or any word, term or phrase of similar import, shall mean, include and refer to corporations, companies, associations, societies, firms, partnerships, joint stock companies, fiduciaries of any nature, as well as individuals. . . . as amended, L. 1947, . . . page 1157."

2. "If any person, who, at the time of his death, has been or shall have been, the owner of any personal property within this State, and shall have died, or shall die, intestate, without heirs or known kindred, capable of inheriting the same, and without leaving a surviving spouse, such personal property, of whatsoever nature, the same may be, shall escheat to the State."

3. "Whenever the owner, beneficial owner, or person entitled to any personal property within this State, has been or shall be and remain unknown for the period of fourteen successive years, or whenever the whereabouts of such owner, beneficial owner or person, has been or shall be and remain unknown for the period of fourteen successive years, or whenever any personal property wherever situate

has been or shall be and remain unclaimed for the period of fourteen successive years, then, in any such event, such personal property shall escheat to the State. . . . as amended L. 1947, . . . page 1158 . . ."

4. "The Court of Chancery shall have jurisdiction in all cases where an escheat has occurred or shall occur under the provisions of this act. . . . as amended L. 1947, . . . page 1158 . . ."

5. "Whenever, by reason of any information filed with the Attorney-General, or which comes to his notice so that he shall become aware of the fact that any personal property has escheated or is supposed to have escheated to this State under the provisions of this act, he shall appoint some suitable person or persons to act as escheator of such property."

6. "Such escheator, when so appointed, shall proceed to collect and furnish to the Attorney-General or to such attorney or counsellor-at-law as he may designate, all the facts, information and evidence necessary to successfully prosecute the escheat in the Court of Chancery of this State."

7. "The proceedings in the Court of Chancery shall be by petition, in the name of the State of New Jersey, which petition shall set out that certain personal property therein designated has escheated to the State of New Jersey under the provisions of this act, and that the defendant named in such petition has custody or possession of such personal property. Such petition shall contain such other information as may be pertinent to the issue and shall petition the court to enter a decree escheating the personal property mentioned in said petition to the State of New Jersey. Such petition may describe in general terms the type or kind of such personal property, and may set forth:

"(a) That the defendant named in such petition has custody or possession of such personal property, and that the owner of, beneficial owner of, or person entitled to, the same has been and remains unknown for the period of fourteen successive years; or

"(b) That the whereabouts of such owner, beneficial owner or person entitled to such personal property has been and remains unknown for the period of fourteen successive years; or

"(c) That such personal property of such owner has been and remains unclaimed for the period of fourteen successive years; or

"(d) That the owner of such personal property has died intestate without heirs or known kindred capable of inheriting the same and without leaving a surviving spouse.

"Such petition may combine more than one of the above contingencies and relate to more than one person. The person having possession of such personal property may, after the filing of such petition, be required by an order of the Court of Chancery to furnish to the Attorney-General, or his deputy appointed to prosecute the action, all information such person having possession of such personal property may have with relation to the last known address of any person having any interest in, together with any other information relating to, such personal property.

"The Court of Chancery shall, upon the filing of such petition, make an order requiring the defendant to answer the petition within a time therein limited. Such order shall contain such other directions as the court may deem appropriate for the speedy determination of the cause, the protection of the property, or for the disclosure of information pertinent to the prosecution of the cause. A copy of the petition and order shall be served upon the defendant in the manner provided in the said order, whereupon the defendant shall, within the time limited, answer said petition and comply with said order. Upon the filing of defendant's answer, and his compliance with such order, the

court shall, by a further order, designate a time and place for the hearing of said petition.

"A notice containing a summary of the order designating the time and place of hearing, as approved by the court shall be published in a manner directed by the court and shall also be published once a week for three successive weeks in a newspaper of general circulation designated by the court; *provided, however,* that in the event the value of the personal property of any one owner is less than fifty dollars ($50.00), publication may be dispensed with if the the court so directs. Such notice shall direct that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the court his claim in writing, at least five days prior to the date fixed for the hearing. . . . as amended L. 1947, . . . p. 1158 . . ."

8. "Any person claiming to be entitled to the personal property described in the petition, or to any part thereof, or to any interest therein, shall file his claim in the general form of an answer to the petition, which answer shall set forth in such detail as the court may require why the answering party contends that the property mentioned in the petition should not escheat to the State and, if the answering party shall claim any right to or interest in said property, the nature thereof; and the court shall at the time of hearing take such evidence as may be proper, and proceed to determine the cause and enter such final decree as shall be equitable and just and in conformity with the provisions of this act. Such decree may determine the title to such personal property, and where the court shall find that such personal property, in whole or in part, has escheated to the State the decree shall so declare, and such personal property, or so much of it as the court shall decree, shall thereupon escheat to the State.

"In the event no answering pleadings be filed within the time fixed by order of the court, the court may proceed upon the petition alone and enter a decree declaring that the property described in the petition has escheated to the State.

"All the proceedings outlined herein shall be in conformity with the rules and practice of the Court of Chancery except as herein otherwise specified. . . . as amended L. 1947, . . . p. 1160."

9. "Upon the filing of a final decree escheating personal property, the person having such property in their possession shall forthwith deliver the same to the Treasurer of the State of New Jersey. If such personal property be in the form of money, the Treasurer shall pay the same into the general funds of the State; if in the form of negotiable securities, he shall sell the same and deposit the proceeds thereof into the treasury of the State; if in the form of other personal property, it shall be his duty to give public notice thereof and shall then proceed to sell the said property at public or private sale, as he may deem to the best interests of the State, and shall deposit the proceeds thereof in the general funds of the State.

"Before so depositing the proceeds of said escheated property in the public fund, he shall deduct therefrom five per centum (5%) of the moneys so received and shall pay the same to the escheator as a reward for having supplied the information and evidence upon which the escheat has been successfully prosecuted and shall pay such other fees and costs as the decree shall direct.

"The Court of Chancery shall, in its final decree, fix the fees and expenses of the attorney or counsellor who shall have prosecuted the escheat in the Court of Chancery. The fees and expenses shall be deducted from the moneys received by the State Treasurer or from moneys realized by him from the sale of said personal property and shall be paid by him as directed by said decree."

10. "Any decree entered pursuant to the act to which this act is a supplement, shall automatically operate as a full, absolute and unconditional release and discharge of the person having such property in possession or custody from any and all claim, demand, or liability to any person whatever other than the State Treasurer with respect to

such property, and such decree may be pleaded as an absolute bar to any action brought against such person with respect to such property by any person other than the State Treasurer. L. 1947 . . . p. 1161, . . . supplementing L. 1946, C. 155."

11. "In order to ascertain if any person has knowledge of or is in possession of any escheatable property, it shall be lawful for the Attorney-General or his deputy as designated herein to file a bill of discovery in the Court of Chancery requiring any such person or persons, named in such bill, to divulge any information they may have concerning the possession or location of any property subject to escheat, or any other information pertinent to the recovery of such property by the State of New Jersey or which information may lead to the discovery of such escheatable property."

12. "All proceedings in escheat in the Court of Chancery shall be without costs to the State or to the parties defendant except that the court may impose such costs or counsel fees against a defendant where such defendant shall be found by the court to have defended the escheat proceedings without reasonable cause or justification."

13. "It shall be lawful to join more than one escheatable property or estate and more than one defendant having possession thereof in one bill where it appears that the amount of escheatable property in each case does not exceed one thousand dollars ($1,000.00)."

14. "Any person aggrieved by an order or decree of the court, declaring or denying the escheat of any personal property, may appeal therefrom and the proceedings upon such appeal shall be as in the case of appeals from any order or decree of the Court of Chancery."

15. "The title to property acquired by purchasers sold under and by the provisions of this Act shall be absolute."

16. "The Attorney-General or his deputy as designated herein shall at all reasonable times have access to and be entitled to certified copies of all public papers and reports filed with any department of the State Government, free from any cost, charge or fee."

17. "Upon the final determination of an adjudication in any escheat proceedings provided herein, the Attorney-General shall cause a duly certified copy of such adjudication or decree to be transmitted to the State Treasurer."

18. "Any person whose property may have escheated to the State as provided herein, or any rightful heir entitled to such property by descent, may, within two years after the filing of the final decree in the Court of Chancery, apply to said Court of Chancery to reopen the said decree and upon proof that they were without actual knowledge of such escheat proceedings, and of proof of ownership of such property or the right to possession thereof, the court may in its discretion reopen the decree and in the event that the aforesaid decree in part or in whole be revised or amended, the court may direct the State Treasurer to repay such part of the moneys received by the State Treasurer by reason of such decree, to the party or parties in the amended decree entitled to have the same, and upon the entry of such final decree the State Treasurer shall repay the said moneys as provided in such decree; *provided, however,* that there shall first be deducted all expenses and charges that may have accrued or been paid out by reason of the entry of the original decree."

19. "The provisions of this act are severable, and in the event of any provision hereof being declared unconstitutional, it is hereby declared as the legislative intent that such unconstitutional provision shall not affect any other provision of this act."

APPELLANT'S REPLY BRIEF

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Supreme Court of the United States

OCTOBER TERM 1950.

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vs.

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ON APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY.

APPELLANT'S REPLY BRIEF.

JOSIAH STRYKER,
Attorney of and Counsel for Appellant.

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Appellee's Argument with Reference to the Power of the State to Escheat Personal Property.

This appeal does not challenge the power of the State to escheat personal property subject to its jurisdiction for the purpose of escheat pursuant to the provisions of a valid statute. Our contention is that the right of the State to take property, the whereabouts of the owner of which have been unknown to the Appellant for fourteen years and personal property which has been unclaimed for fourteen years rests not upon the common law, but solely upon the Act of 1946, as amended, and that that Act violates: (1) the due process of law provision of the Fourteenth Amendment of the United States Constitution; (2) the provision of Article

I, Section 10, paragraph 1, of the Constitution of the United States which prohibits a state from enacting any statute which impairs the obligation of a contract; and (3) that because of the foregoing, the appellant is not protected by the judgment in escheat from subsequent liability to the persons whose property is escheated by the judgment. To compel the appellant to satisfy the judgment of escheat is, in these circumstances, to take its property without due process of law. We, of course, concede that the legislative power of the State is restricted only by the express and implied provisions of the Constitution of the United States and of the State.

Point Two of Appellee's Brief with Reference to Due Process.

Appellee contends that the Appellant has no standing to raise the question of due process because, as claimed by it, the Appellant has no interest in the property escheated. This contention is considered at pages 16 and 17 of our main brief.

In *Anderson National Bank* vs. *Luckett* (1944), 321 U. S. 233, this Court said at pages 242 and 243:

> "But if the statute is deficient in its provisions for notice and opportunity for hearing so that the depositors would not be bound by any proceedings taken under it, the bank would be entitled to raise the question whether its obligation to the depositors would be discharged by payment of the deposits to the state."

The statutory notice and the notice actually published in the case at bar were equivalent to no notice at all to the claimants. We do not contend that, if it were assumed that the claims escheated by the judgment in the case at bar had

a situs in this State for the purpose of escheat, that it was beyond the power of the legislature to provide for notice by publication. It is our contention that the notice prescribed by the statute was of such a character as to be no notice to any claimant who perchance might see it, and that the statutory provisions for publication were of such a character as to make it practically certain that no claimant would ever see the publication.

At the top of page 22 appellee quotes from the language of the opinion of this Court in *Anderson National Bank* vs. *Luckett*, 321 U. S. 233, in which this Court said that the question of due process depends upon the taking into account of the purpose of the procedure and its effect upon the rights asserted, as well as all other circumstances which may render the proceeding appropriate to the nature of the case.

The purpose of the procedure in the *Luckett* case was not to deprive the depositors of their property and to vest such property in the State but merely to require the bank to turn over the deposit to the State to be held by the State subject to the claims of the depositors. The judgment in the case at bar vests the property in question in the State and deprives the owners thereof of all interest therein.

The appellee contends that the seizure of the property is notice to the claimant citing in support of this contention *The Mary*, 9 Cranch 126, 144. In the case cited the procedure was strictly *in rem*. The ship seized was in the possession of the captain who represented the owner and who was under a duty to notify the owner.

The procedure in the case at bar is a proceeding *quasi in rem*. The statute was passed long after the claimants had acquired the property in question. Even if they are presumed to know of this statutory provision, of which they, of course, know nothing, they have no means of knowl-

edge of the institution of the proceeding or of the time fixed for the hearing.

At page 14 appellee's counsel cite *Brooklyn Borough Gas Co.* v. *Bennett*, 277 N. Y. S. 203, 154 Misc. 106 (Sup. Ct. 1935). In the case cited, the Court considered a statute which required the Gas Company, a public service corporation, to pay over to the state consumer deposits which had been unclaimed for fifteen years. The depositors, however, had the right at any time to come in and prove ownership of the deposits and recover the amount of their deposits. The act did not divest their title but only provided for a custodial taking. With reference to notice the Court said at page 217:

> "It would appear that the doctrine that seizure is notice solely to the owner and publication to others is contrary to the accepted notions on this subject. Seizure for some purposes is notice to the whole world, including the owner, in those proceedings where, by experience, this form of notice has been found to be reasonable and necessary. (Citing cases.) As a general rule, seizure standing alone is not due process. This is indicated by the traditional practices in proceedings *in rem*."

At page 219 the court said:

> "Though notice by publication as well as seizure is necessary *in rem* to make a sentence in such proceeding binding on the whole world, such sentence is one which usually affects ownership by transferring or extinguishing rights or interest in or to the thing subject to the jurisdiction. Where, however, title or ownership is unaffected and custody only is involved, a different situation is presented."

Counsel quote from the opinion of this Court in *Hollingsworth* v. *Barbour* (1830) (29 U. S.), 4 Pet. 466, 475. The

quotation referred to proceedings in Admiralty and to some similar cases and is *obiter dictum* having no relation to anything decided by the Court.

In *Windsor* v. *McVeigh* (Sup. Ct., 1876), 93 U. S. 274, lands belonging to the plaintiff had been seized by the United States Government upon the ground that he had given aid and comfort to the enemy during the Civil War. A notice had been published, but, upon the appearance of the defendant in the condemnation proceeding, he was not permitted to defend because he was a resident within the Confederate lines and a rebel. The court held that the judgment of condemnation was invalid. In the course of the opinion this court said at page 279:

> "To this end some notification of the proceedings, beyond that arising from the seizure, prescribing the time within which the appearance must be made, is essential. Such notification is usually given by monition, public proclamation, or publication in some other form. The manner of the notification is immaterial, but the notification itself is indispensable."

This case was cited with approval in *Hassell* v. *Wilcox* (Sup. Ct., 1889), 130 U. S. 493, at page 504.

In *Griffin* vs. *Griffin*, 327 U. S. 220, 228 this Court with reference to the notice required by due process said:

> "Such notice cannot be dispensed with even in the case of judgments *in rem* with respect to property within the jurisdiction of the court rendering the judgment. *Roller* v. *Holly*, 176 U. S. 398, 409."

At page 26 Appellee quotes from the decision of the United States Court of Appeals for the District of Columbia in *Philadelphia Company* v. *Securities and Exchange Commission* that "The words 'after notice and * * * hearing'

are words of art in our system of law." The sentence following the quotation is "They connote a hearing appropriate to adjudicatory action, not to legislation or rule making."

Counsel also refers to certain acts of Congress prescribing notice.

We respectfully submit that a legislative requirement for "notice" may well be construed as requiring adequate notice. This, however, is not the situation presented by the statute in this case because the statute provides what the notice shall contain and a notice containing only such provision would comply with the statutory requirements and would be obviously inadequate. Even as construed by the New Jersey Supreme Court the statutory provision for notice is inadequate because the Court did not hold that the statute requires that the basis of the state's claim of escheat should be stated in the notice, and there is nothing in the statute which so provides.

The Publication of the Notice Was Inadequate.

We have dealt with this subject at pages 28, 29 and 30 of our main brief in which the cases cited in appellee's brief are analyzed and considered and other decisions which support our contention are cited. Our contention is that when the state seeks to confiscate property, a real effort must be made to advise the owner of the property of the proceeding. The statutory provisions for escheat, as construed by the State Supreme Court, are not self-executing, and the state acquires no interest in the property until a judgment of escheat has been rendered. 5 N. J. bottom of p. 306 (R. 259). Certainly, the owners of the property are entitled to a real opportunity to present their claims to the

property. Provision for publication designed to comply with the forms of law and to ignore its substance does not constitute due process.

The Statute and the Procedure Thereunder Violate the Constitutional Provision Against Impairment of Contracts.

Appellee's counsel state that the rights of the holders of shares of stock of the appellant and the right to dividends on appellant's stock are not contract rights.

Appellee's counsel cite *Neilson* v. *Russell* (Sup. Ct., 1908), 76 N. J. L. 27, reversed 76 N. J. L. 655. The case cited affords no support to the contention of appellee that the rights of stockholders to their stock and to their dividends are not contract rights. The decision cited in appellee's brief which was in the lower court sustained a transfer tax on stock of a New Jersey corporation which was a part of the estate of a decedent who died domiciled in England. The reversal was based on a construction of the statute, which was held not to provide for such tax. *Breslin* v. *Fries-Breslin Co.* (E. & A., 1904), 70 N. J. L. 274, has no application to the point on which it is cited in appellee's brief.

It is well in settled in New Jersey that the certificate of incorporation and the law in effect at the time the corporation was organized is a contract between the stockholders and the corporation and between the stockholders *inter sese*. See *Allen* vs. *The Francisco Sugar Co.*, 92 N. J. Eq. 431 (E. & A., 1920), and cases therein cited.

Appellee's brief cites *Home Building & Loan Assoc.* v. *Blaisdell*, 290 U. S. 398 and *McSweeney* vs. *Equitable Trust Co.*, 16 N. J. Misc. 193, 198 A. 529 (Sup. Ct., 1938). (The case last above cited was affirmed, solely on the ground of estoppel without considering the constitutionality of the

act involved. 127 N. J. L. 299.) Appellee contends that the Act of 1946 and its effect upon the contracts of the owners of the property may be sustained as an exercise of the police power.

We respectfully submit that the Escheat Act is not an exercise of the police power but is an Act passed solely for the purpose of increasing the revenues of the State.

Under the British law, escheat, *bona vacantia* and forfeiture of a felon's estate were all regarded as revenue measures. In Chitty *Prerogatives of the Crown*, page 226, the following appears:

> "We may mention *escheats* as constituting another, and by no means an unimportant part, of the ordinary and inherent revenue of the Crown."

The State Supreme Court in the case under review stated that

> "Under the common law of England escheats came to be classified as 'another branch of the King's ordinary revenue'." (R. 251) in 5 N. J. 281, 297.

The appellee contends that the escheat law of 1946 is a valid exercise of police power, and that the contracts of the owners of property escheated are lawfully subject to such exercise. The contention amounts to this: that the State in order to enhance its revenues may take the property of these claimants without compensation and without affording them any real opportunity to assert their rights.

In *Home Building & Loan Ass'n* v. *Blaisdell*, 290 U. S. 398, this Court sustained a statute of the State of Minnesota enacted during the world wide depression of the early thirties which extended for a definite period and subject to certain conditions the period within which a mortgagor

might redeem the mortgaged property from a foreclosure sale. With reference to the police power this Court said at page 437, quoting from the opinion in *Manigault* v. *Springs*, 199 U. S. 473.

> "This power, which in its various ramifications is known as the police power, is an exercise of the sovereign right of the Government to protect the lives, health, morals, comfort and general welfare of the people, and is paramount to any rights under contracts between individuals."

The Act in question was sustained because of the serious emergency which was the occasion of its enactment. The opinion reviews many cases in this Court which construed and applied the obligation of contract clause of the Federal Constitution.

At page 429 this court said:

> "This Court has said that 'the laws which subsist at the time and place of the making of a contract, and where it is to be performed, enter into and form a part of it, as if they were expressly referred to or incorporated in its terms. This principle embraces alike those which affect its validity, construction, discharge and enforcement. . . . Nothing can be more material to the obligation than the means of enforcement. . . . The ideas of validity and remedy are inseparable, and both are parts of the obligation, which is guaranteed by the Constitution against invasion.' "

Page 32 of appellee's brief also contains another quotation from the opinion in *Home Building & Loan Assoc.* v. *Blaisdell*, in which this Court said that the question is not whether the legislative action affects contracts incidentally or directly or indirectly, but whether the legisla-

tion is addressed to a legitimate end and whether the measures taken are reasonable and appropriate to that end.

The words "legitimate end" in this quotation, of course, mean an end within the scope of the police power as elsewhere defined in the opinion. The taking of private property to enhance the revenue of the state is not within the police power.

Counsel cite and quote from *People, ex rel. Durham Realty Corp.* v. *LaFetra* 230 N. Y. 429 and *East New York Savings Bank* v. *Hahn,* 326 U. S. 230, both of which cases considered exercises of the police power similar in nature to the power sustained in *Home Building & Loan Assoc.* v. *Blaisdell.*

We do not question the doctrine of the cases cited but deny their application to the case at bar.

The 1946 statute was not enacted to protect the lives, health, morals, comfort or general welfare of the people but solely for the purpose of securing some additional revenue for the state.

Private property may never be taken for the use of the state without compensation by the exercise of the police power. See *Sweet* vs. *Rechel,* 159 U. S. 380, *Connecticut River Railroad Company* v. *County Commissioners of Franklin,* 127 Mass. 50 (Sup. Jud. Ct. 1879); *Inhabitants of Watertown* vs. *Mayo* (Sup. Jud. Ct. 1872) 109 Mass. 315, 318; *Manigault* vs. *Springs,* 199 U. S. 473.

In *Sweet* vs. *Rechel, supra,* this court said at page 399:

> "When, however, the legislature provides for the actual taking and appropriation of private property for public uses, its authority to enact such a regulation rests upon its right of eminent domain—a right vital to the existence and safety of government. But it is a condition precedent to the exercise of such power that the statute make provision for reasonable compensation to the owner."

The opinion distinguishes between the exercise of the police power without any purpose to take and apply property to public uses and the statute there involved under which title was taken to property for the purpose of abating a nuisance.

Neither *The Philadelphia Electric Co. Case*, 352 Pa. 457, 43 A. 2d 116 (1945), cited at page 32 of appellee's brief nor *Attorney General* v. *Provident Inst. for Savings*, 201 Mass. 23, 86 N. E. 912 (1909), cited at page 33 thereof is an escheat case. *In re Philadelphia Electric Company*, proceedings were commenced to require the company to pay into the State Treasury, without escheat, certain monies held by the Company which had remained unpaid and unclaimed for six successive years. Under section 9 of an Act of the Legislature of Pennsylvania enacted in 1937 (which section is set forth in full as a footnote in 43 A. (2d) page 115), the money when paid into the Treasury was to be held subject to being refunded to the owners upon application therefor. The Court said at page 119 in 43 A. (2d):

> "Of course, before moneys or property may be actually escheated under the provisions of the Act of 1915 or the amendment thereof, the want of a claim to the moneys or property or the non-payment thereof for the period of time prescribed by the applicable statute would necessarily have to be established."

As quoted in appellee's brief the Pennsylvania Court said:

> "A legislative provision for escheat is a valid exercise of the police power of the State."

The only authority cited in support of this statement is *Cunius* vs. *Reading School District*, 198 U. S. 458. The decision in the *Cunius* case had nothing whatever to do with

escheat or with the payment of unclaimed money to the State.

In *Malone* vs. *Provident Institution for Savings* (Mass. Sup. Jud. Ct., 1909), 201 Mass. 23, 86 N. E. 912 cited at page 33 of appellee's brief the statute under consideration was not an escheat statute. It required the payment of bank deposits which had been entirely unclaimed for thirty years to the State Treasurer

> "subject to be repaid to the person having and establishing a lawful right thereto, with interest at the rate of three per cent. per annum from the time when it was so paid to said treasurer to the time when it is paid over by him to such person."

The above is also true of the New York statute construed in *Connecticut Mutual Life Ins. Co.* v. *Moore*, 333 U. S. 541, cited at page 35 of appellee's brief as is stated at pages 33 and 34 of our main brief.

If it be assumed that the conservation of unclaimed property for the benefit of the true owner is a lawful exercise of the police power, it by no means follows that the confiscation of such property for the benefit of the state is such an exercise, or that it can lawfully be held that the contracts of the owners of the escheated property made many years before any statute providing for the escheat of such property had been enacted in New Jersey are held by them subject to confiscation by the State in proceedings which afford them no real opportunity to appear and establish their claims.

Since, as we contend, the statute under consideration deprives the owner of the escheated property of all remedy against the appellant and substitutes only a theoretical opportunity to appear in the escheat proceeding, the statute impairs the obligation of their contracts and, therefore,

they are not deprived by the judgment of escheat of their remedy against the appellant. In these circumstances the section of the Act which assumes to protect the appellant from liability to the owners of the escheated property is invalid as violating the contract clause of the Federal Constitution and affords no protection to the appellant.

Counsel, at page 38, cite and quote from *Canada Southern Railroad* vs. *Gebhard*, 109 U. S. 527. The case cited involved the validity of a plan with relation to the refunding of bonds of the Canadian Southern Railway Company, a Canadian corporation, all of the property of which was located in Canada. A holder of some of the bonds objected that the refunding impaired his contract rights. This Court in sustaining the legislation which authorized the refunding said at page 535:

> "Hence it seems to be eminently proper that where the legislative power exists some statutory provision should be made for binding the minority in a reasonable way by the will of the majority; and unless, as is the case in the States of the United States, the passage of laws impairing the obligation of contracts is forbidden, we see no good reason why such provision may not be made in respect to existing as well as prospective obligations."

At page 38 counsel again cite and quote from the opinion in *Anderson National Bank* vs. *Luckett*. As above stated, this case did not deal with any escheat. All that this Court considered in the case was the statute which required the bank to pay the unclaimed deposits to a state officer to be held subject to the claims of the owners thereof. This is also true of the *Reading Company* case, 352 Pa. 457, 43 A. (2d) 116, cited at page 39, as the statute under consideration in that case merely required the payment of the money

to the State Treasurer to be held subject to the claims of the owners.

Appellee contends that the judgment of the State Court in the case at bar protects the appellant from the claims of the claimants under Article IV, Section 1 of the Federal Constitution. The judgment depends upon the statute. If the statute and the procedure thereunder violate either the due process clause of the Fourteenth Amendment or the constitutional provision against the impairment of contracts, the judgment is not entitled to full faith and credit either in the State of New Jersey or elsewhere and affords no protection to the appellant.

In *Griffin* vs. *Griffin*, 327 U. S. 220, 228, this Court said:

> "A judgment obtained in violation of procedural due process is not entitled to full faith and credit when sued upon in another jurisdiction. *National Exchange Bank* v. *Wiley*, 195 U. S. 257; *Old Wayne Life Assn.* v. *McDonough*, 204 U. S. 8, 23; *Baker* v. *Baker, Eccles & Co.*, 242 U. S. 394, 401. Moreover, due process requires that no other jurisdiction shall give effect, even as a matter of comity, to a judgment elsewhere acquired without due process."

The Shares of Capital Stock of the Appellant and the Dividends on Such Shares of Stock Owned by Nonresidents Are Not Subject to Escheat to the State of New Jersey.

Appellees at page 39 of their brief state that the New Jersey Court determined that the situs of the shares of stock and dividends was in New Jersey for the purpose of escheat and that there is, therefore, nothing for this Court to review on this question. The question whether the State has the power to escheat these shares of stock and dividends is not a question of fact but a question of law. The facts

in the case were stipulated. The only question is whether the stipulated facts establish the right of the State of New Jersey to escheat the property in question.

Appellees cite in support of their contention *Portland R. L. & P. Co.* v. *Railroad Commission*, 229 U. S. 397 and *Grayson* v. *Harris*, 267 U. S. 352. Both of these cases involved disputed questions of fact which were determined by the trial court and the determination by the trial court was adopted by the state appellate court They are not in point. They do not even tend to sustain appellee's position.

Neilson v. *Russell*, 76 N. J. L. 27, reversed 76 N. J. L. 655; *Greves* v. *Shaw*, 173 Mass. 205, 53 N. E. 372; *Tax Commission* v. *Aldrich*, 316 U. S. 174 cited at page 41 of Appellee's brief were transfer tax cases.

They hold that the state of incorporation of a corporation has the power to impose a transfer inheritance tax upon the transfer of the stock of a corporation owned by a decedent who died domiciled in another jurisdiction.

We have commented upon the Aldrich case at page 45 of our main brief.

We respectfully submit that the power to impose a transfer tax on the transfer of shares from the dead to the living differs widely from the power to confiscate shares of stock owned by a living non-resident on the ground that the non-resident had failed to assert his claim or to keep the corporation issuing the stock advised of his address.

Southern Railroad Co. v. *Allison*, 190 U. S. 326, cited at page 42 of appellee's brief, dealt merely with the jurisdiction of a Federal Court when based upon diversity of citizenship.

Newark Fire Insurance Co. v. *State Board*, 307 U. S. 313, dealt with the power of the state of incorporation to tax the intangible property of the corporation. There is

nothing in the opinion which supports the view that the state of incorporation may confiscate claims which non-residents have against the corporation or shares of stock therein owned by non-residents.

At page 44 counsel cite *Pennington* v. *Fourth National Bank*, 243 U. S. 269. In the case cited Mrs. Pennington, who had been divorced from her husband, sought alimony. She joined as a defendant the Fourth National Bank of Cincinnati in which her former husband had a deposit account. The Court entered a preliminary order enjoining the Bank from paying out any part of the deposit and later directed the Bank to make payments from it to the wife. Finally, the Court perpetually enjoined the Bank from making any payment to the husband and ordered the Bank to pay the balance to the wife which it did. The husband had been served by publication only and challenged the judgment of the Court. This Court on appeal sustained the judgment of the Ohio Court, citing among other cases: *Harris* v. *Balk*, 198 U. S. 215. The Court said, in part, at page 271:

> "The thing belonging to the absent defendant is seized and applied to the satisfaction of his obligation."

In *Harris* v. *Balk*, 198 U. S. 215, Harris, a resident of North Carolina, was indebted to Balk in the sum of $180. Balk was also a resident of North Carolina. Thereafter, while Harris was temporarily in Baltimore, one Epstein, a creditor of Balk, caused to be issued a non-resident writ of attachment against Balk, attaching the debt due Balk from Harris, which writ was personally served on Harris. Judgment was thereafter entered and Harris paid the money to Epstein.

Before the judgment was entered and the money paid, but after the garnishment proceedings were instituted, Balk sued Harris who pleaded the Maryland judgment in his defense. The trial court rejected this defense on the ground that the Maryland Court had no jurisdiction to attach or garnish the debt due from Harris to Balk, because Harris was but temporarily in the State and the situs of the debt was in North Carolina. This court reversed and said in part at page 222:

> "We do not see how the question of jurisdiction *vel non* can properly be made to depend upon the so-called original *situs* of the debt, or upon the character of the stay of the garnishee, whether temporary or permanent, in the State where the attachment is issued. Power over the person of the garnishee confers jurisdiction on the courts of the State where the writ issues. *Blackstone* v. *Miller*, 188 U. S. 189, 206. If, while temporarily there, his creditor might sue him there and recover the debt, then he is liable to process of garnishment, no matter where the *situs* of the debt was originally."

At page 226 this court said:

> "The plaintiff, in such proceeding in the foreign State is able to sue out the attachment and attach the debt due from the garnishee to his (the garnishee's) creditor, because of the fact that the plaintiff is really in such proceeding a representative of the creditor of the garnishee, and therefore if such creditor himself had the right to commence suit to recover the debt in the foreign State his representative has the same right, as representing him, and may garnish or attach the debt, provided the municipal law of the State where the attachment was sued out permits it."

We respectfully submit that *Harris* vs. *Balk* well illustrates the wide difference between attachment and escheat. Attachment involves no confiscation. The debt is seized and applied to the use of the owner of the debt in satisfaction or partial satisfaction of his debt to the attaching creditor. The attaching creditor acts in his attachment suit as the representative of the owner of the debt, and, therefore, can attach the debt because the creditor who is his debtor could sue in the jurisdiction to recover it.

Corry v. *Baltimore,* 196 U. S. 466 and *Schuylkill Trust Co.* v. *Pennsylvania,* 302 U. S. 506, are both tax cases.

We have commented upon *Security Savings Bank* vs. *California,* 263 U. S. 282, cited at page 45 of appellee's brief at page 44 of our main brief. The reasoning which led this court to sustain the escheat proceeding in that case was based upon facts not present in the case at bar. Attention may be called to the fact that in the *Security Savings Bank* case this court said at page 287:

> "The state court likened the proceeding to garnishment, and thought that it should be described as *quasi in rem.* In form it resembled garnishment. In substance it is like proceeding in escheat."

This court in determining the power of the State of New Jersey to escheat the claims in question will undoubtedly consider the substance rather than the form.

The *Philadelphia Electric Company* case, 352 Pa. 457, cited at page 45 of appellee's brief, differs from the case at bar in two respects:

> First, the Philadelphia Electric Company was unquestionably a local Company doing business nowhere except in Pennsylvania and having no property elsewhere. At least, it does not appear in the case that it did any business or had any property except in

Pennsylvania; Second, as has above been stated, the statutory provision there under consideration provided not for escheat but for payments to the State Treasurer to be held subject to the claims of the owners.

Appellee asserts that since the appellant is a New Jersey corporation the State has control over the property covered by the judgment and therefore can escheat it.

The question involved is whether the State is empowered to assert control over the claims of the nonresidents. The State Supreme Court said "The State's right is purely derivative; it takes only the interest of the unknown or absentee owner." 5 N. J. 281, 298 R., p. 252. These claims are based on contracts made outside of the State and to be performed outside of the State. The property of the corporation is located outside of the State. These claims are enforceable not only in New Jersey but elsewhere where suit may be instituted against the corporation.

In *Connecticut Mutual Life Insurance Company* vs. *Moore*, 333 U. S. 541, this Court held that the State of New York had sufficient contacts with the claims of residents of New York against insurance companies incorporated under the laws of other states to support the statute there under consideration, notwithstanding the fact that, at least in the case of one of such insurance companies, the laws of Pennsylvania provided for an escheat of the same claims simply because the corporation was a Pennsylvania corporation. The State of New Jersey has no contacts with the claims of the nonresidents involved in the case at bar. The contacts are where the contracts were made, where they are to be performed and where the claimants reside.

As shown at page 55 in our main brief the State has not such control over the claims of nonresidents that it is empowered to discharge them under a state bankruptcy law, unless they submit their claims in the proceeding.

Control over the subject matter of a debt or of the debtor does not in every instance confer control over the claim of the creditor with respect to such debt. The State Court in which interpleader proceedings are instituted has no control over the claims of nonresidents although the subject matter of the suit has been deposited in Court. See: *New York Life Ins. Co.* v. *Dunlevy*, 241 U. S. 518.

We respectfully submit that in view of the undisputed facts in this case the State had no power to escheat the claims of these nonresidents and the judgment of escheat does not protect the appellant.

Conclusion.

We respectfully submit that the Act of 1946 is invalid because the procedure therein does not comply with the requirements of due process of law, because the Act and the procedure thereunder impairs the obligation of the contracts of the persons whose claims are escheated, and because the situs of the claims in question is not within the State of New Jersey for the purpose of escheat; that the judgment rendered by the State Court does not protect the appellant from the subsequent assertion of the claims against it by the owners of the property escheated and that to compel the appellant to transfer the shares of stock in question and to pay to the State the amount of the dividends in question leaving it still liable to satisfy the claims of the owners of the property notwithstanding the judgment, deprives the appellant of its property without due process of law.

Respectfully submitted,

JOSIAH STRYKER,
Attorney of and Counsel for Appellant.

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SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1950

No. 384

STANDARD OIL COMPANY,

Appellant,

vs.

THE STATE OF NEW JERSEY, BY THEODORE D. PARSONS, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY

APPEAL FROM THE SUPREME COURT OF THE STATE OF NEW JERSEY

STATEMENT OPPOSING JURISDICTION AND MOTION TO DISMISS OR AFFIRM

THEODORE D. PARSONS,
Attorney General of New Jersey,
EMERSON RICHARDS,
Deputy Attorney General of New Jersey.

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SUPREME COURT OF NEW JERSEY

SEPTEMBER TERM, 1949

No. A-134. Appeal Docket No. 455

THE STATE OF NEW JERSEY, BY THEODORE D. PARSONS, ATTORNEY GENERAL OF THE STATE OF NEW JERSEY,

Plaintiff-Appellee,

vs.

STANDARD OIL COMPANY,

Defendant-Appellant

CIVIL ACTION

ON PETITION FOR APPEAL FROM THE SUPREME COURT OF NEW JERSEY TO THE SUPREME COURT OF THE UNITED STATES

STATEMENT IN OPPOSITION TO APPELLANT'S STATEMENT OF JURISDICTION

Nature of the Case

The statute of the State of New Jersey (Chapter 155, P. L. 1946, page 713, as amended by Chapter 357, P. L. 1947, page 1157, N. J. R. S. 2:53-15, et seq.) set forth verbatim in

Appellant's "Statement in Support of Jurisdiction," pages 2 to 9, inclusive, provides, in Section 3, that whenever the owner or beneficial owner of, or person entitled to, any personal property within the State, has been or shall be and remain unknown for the period of fourteen successive years, or whenever the whereabouts of such owner, beneficial owner or person entitled has been or shall be and remain unknown for the period of fourteen successive years, or whenever any personal property has been or shall remain unclaimed for fourteen successive years, then such property shall escheat to the State of New Jersey.

The statute provides a complete procedure for the escheat of such property under the jurisdiction of the Chancery Court (now Chancery Division of the Superior Court). This procedure provides for the filing of a bill against the possessor of the escheatable property, an answer disclosing the nature of the property; a hearing before the court to determine the rights of all of the parties, a decree settling these rights, and the escheat of such property as may be escheatable; and the provision that the decree may be opened at any time within two years upon a showing that property has been escheated without the knowledge of the owner. The hearing before the court is, as to the unknown parties, upon notice by publication in a newspaper of general circulation in New Jersey.

After the escheat statute became effective, the State of New Jersey instituted proceedings under the statute, in the Court of Chancery, at Trenton, New Jersey. The state filed a petition in the said proceedings, setting forth, inter alia, that the defendant was a corporation organized under the laws of the State of New Jersey and had its registered office at Flemington, New Jersey; that certain shares of the capital stock of the company and certain of the dividends declared by the company had been unclaimed for fourteen

successive years; that the whereabouts of the owners or beneficial owners of, or persons entitled to, such shares of stock and such dividends had been unknown for fourteen successive years, and that under the provisions of the escheat statute, such shares of stock and dividends escheated to the State of New Jersey.

A copy of the petition was served upon the defendant, which filed an answer, denying that such property was subject to escheat to the State of New Jersey, and setting forth a number of defenses. The defendant later filed an Amended Answer, setting forth additional defenses.

At a pre-trial conference, the Chancery Division of the Superior Court of New Jersey, to which, under the new Constitution of New Jersey, the jurisdiction of the Court of Chancery and of cases pending therein, were transferred, fixed a preliminary hearing, the purpose of which was, as Judge Jayne, presiding, stated "to debate • • • the controversial points essentially of a legal character in their abstract form." Pursuant to an order of the court, notice of the time and place of the preliminary hearing was published once a week for three (3) successive weeks.

The preliminary hearing was held and the court then filed "Conclusions on the Submission of Certain Legal Issues for Determination."

Thereafter, on March 21, 1949, the court entered an "Order Fixing Time and Place of Final Hearing." In this order the court ordered that "notice of the time and place of final hearing be given by petitioner, in accordance with the provisions of R. S. 2:53-21, by advertising in a newspaper of general circulation in Mercer County once a week for three successive weeks, addressed to and containing the names and addresses of the persons or corporations apparently having unclaimed beneficial interest in, or ownership of, the personal property sought to be adjudged to the State

in this cause, and directing that any of the said persons or corporations claiming a beneficial interest in, or ownership of, the personal property or any part of the personal property mentioned in the petition, shall file with the Court his or its claim in writing, at least five (5) days prior to the date fixed for the hearing * * *."

Notice was published, as required by the order, of the time and place of final hearing on the petition for escheat. The notice listed all of the dividends and shares of stock covered by the judgment later entered below, and contained the name and last known address of every person apparently having a beneficial interest in, or ownership of, such unclaimed dividends or stock, and also set forth, opposite each person's name and last known address, the amount of his unclaimed dividends and/or the number of shares of stock. The notice directed that any of the said persons or any other person claiming a beneficial interest in such property file his claim, in writing, with the Court, at least five (5) days before the time fixed for hearing. The said notice also set forth that the petition itself was on file in the office of the clerk of the court and was open to examination.

No person filed a claim with the court as to any of the said dividends or shares of stock. At the time and place fixed for hearing, the plaintiff and defendant appeared. No other person claiming to be entitled to any of the said property appeared.

On December 8, 1949, the Court entered its Final Judgment, by which it was ordered, adjudged and decreed that the said dividends and shares of stock were escheated to the State of New Jersey.

The New Jersey statute, Sec. 10 (Appellant's Statement in Support of Jurisdiction, page 7), provides that any decree entered pursuant to the statute shall operate as a full, absolute and unconditional release and discharge of the

appellant from any and all claims, demands or liability to any person whatever other than the State Treasurer with respect to the escheated property, and that such decree may be pleaded as an absolute bar to any action brought against the appellant with respect to the escheated property by any person other than the State Treasurer.

Section 17 of the statute (Referred to as Section 18 in Appellant's Statement in Support of Jurisdiction, page 8), provides that any claimant may, within two (2) years after the filing of the final decree in the Court of Chancery, apply to the said Court of Chancery to reopen the decree, and upon full proof of lack of actual knowledge of the escheat proceedings, and proof of ownership, the court may reopen the decree and revise it in whole or in part, and direct the State Treasurer to repay to the party entitled to the same, his part of the money received by the State Treasurer by reason of the decree, after deducting therefrom all expenses and charges that may have accrued or been paid out by reason of the original decree.

Grounds of Appeal Set Up by Appellant

The appellant has set forth the following grounds upon which it contends that the questions involved are substantial:

1. That the notice prescribed by the statute and the procedure therein provided did not afford to claimants adequate notice of the time, place and purpose of hearing and an opportunity to be heard, and that the statute, therefore, violated the due process clause of the Constitution of the United States.

2. That the judgment in escheat did not protect the appellant from the assertion by the owners of the property of their claims against the appellant, and that the statute un-

der which the judgment was entered was, therefore, unconstitutional.

3. That the shares of capital stock and the dividends declared upon the capital stock of the appellant, a New Jersey corporation, have no situs in the State of New Jersey for the purpose of escheat, and the statute, therefore, violated the due process clause and the provision against impairment of contracts contained in the Constitution of the United States.

4. That the statute, while attempting to deprive the claimants of their remedy against the appellant, did not afford to the claimants an adequate substitute remedy; that thereby obligation of contracts was impaired, in violation of the Constitution of the United States, and, therefore, the statute was invalid.

Statement of Grounds Making Against Jurisdiction

Although the appellant had raised federal questions in a formal manner, those questions have already been decided by the Supreme Court of the United States in earlier cases, so that the questions relied upon by the appellant are not now substantial in character, and leave no room for real controversy.

1. The appellant does not, as we understand it, complain that the notice as actually published was insufficient and did not constitute due process, but that the statute which prescribed that the notice be published did not set out in detail all the elements of the notice and that the statute, rather than the notice, therefore, did not constitute due process.

We take it that the actual notice, rather than the general language of the statute, should be considered in applying

the test of due process. The Supreme Court so applied it it and held that the notice did constitute due process.

We think that the language used by this Court in the very recent case of *Mullane* v. *Central Hanover Bank and Trust Company*, 339 U. S. 306, 94 L. Ed. 978, controls the situation here. The property sought to be escheated is that of persons whose addresses and whereabouts are unknown. Consequently, no notice other than publication could be given as a practical matter. The provision that this notice, containing the names and description of the property, be published for three weeks in a newspaper, in this case of very wide circulation, gave a claimant practically a month in which to appear and file his claim. The actual time in this case between the publication of the notice and the date of the hearing was thirty-three (33) days. Since no other method of calling attention affecting the property of the unknown owners was possible as a practical matter, we submit that the notice was sufficient and conforms to the principle of the cases decided in this Court and the actual language employed by this Court in the *Mullane* v. *Central Hanover Bank and Trust Company, supra.*

The adequacy of the notice prescribed by the New Jersey statute is established by a long line of cases.

In *International Shoe Co.* v. *Washington*, 326 U. S. 310, 319, 90 L. Ed. 95, 104, it is said:

> "Whether due process is satisfied must depend rather upon the quality and nature of the activity in relation to the fair and orderly administration of the laws which it was the purpose of the due process clause to insure."

In *Dent* v. *West Virginia*, 129 U. S. 114, 124, 32 L. Ed. 623, 626, the court said:

> "Legislation must necessarily vary with the different objects upon which it is designed to operate. It is

> sufficient, for the purpose of this case, to say that legislation is not open to the charge of depriving one of his rights without due process of law, if it be general in its operation upon the subjects to which it relates, and is enforceable in the usual modes established in the administration of government with respect to kindred matters, that is, by process or proceedings adapted to the nature of the case."

The principles stated above have been applied in the consideration of notice as constituting due process.

In *The Mary*, 13 U. S. (9 Cranch) 126, 144, 3 L. Ed. 678, 684, the court said:

> "Where these proceedings are against the person, notice is served personally, or by publication; where they are in rem, notice is served upon the thing itself."

It is the seizure of the thing that constitutes the notice. As stated in *Hollingsworth* v. *Barbour*, 29 U. S. (4 Pet.) 466, 475, 7 L. Ed. 922, 926:

> "The law regards the seizure of the thing as constructive notice to the whole world, and all persons concerned in interest are considered as affected by this constructive notice."

In the instant case, seizure of the rest was effected by service upon the appellant. As said in *Security Savings Bank* v. *California*, 263 U. S. 282, 287, 68 L. Ed. 301, 307:

> "Seizure of the deposit is effected by the personal service made upon the bank. Thereby the res is subjected to the jurisdiction of the court."

Pennoyer v. *Neff*, 95 U. S. 714, 727, 24 L. Ed. 565, 570, declares:

> "The law assumes that property is always in the possession of the owner, in person or by agent; and it proceeds upon the theory that its seizure will inform

him, not only that it is taken into the custody of the court, but that he must look to any proceedings authorized by law upon such seizure for its condemnation and sale."

The question of the sufficiency of notice in connection with the escheat of deposits in national banks was discussed in *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 243, 88 L. Ed. 692, 703, where it was said:

> "The statute itself is notice to all depositors of banks within the state, of the conditions on which the balances of inactive accounts will be deemed presumptively abandoned, and their surrender to the state compelled. All persons having property located within a state and subject to its dominion must take note of its statutes affecting the control or disposition of such property and of the procedure which they set up for those purposes."

The notice in that case was by posting on the court house door, and was held to comply with the requirements of due process. The court said further (245):

> "In all such proceedings the seizure of the property is in itself a form of notice of the claim asserted, to those who may claim an interest in the property. See Corn Exchange Bank vs. Coler, 280 U. S. 218, 74 L. Ed. 378, 50 S. Ct. 94, holding constitutional a statute providing for no notice to the owner of a bank deposit other than its seizure."

In *Security Savings Bank* v. *California*, *supra*, cited and followed in the *Luckett* case, it is said (287):

> "In either case (whether the proceedings should be described as being in rem or quasi in rem) the essentials of jurisdiction are that there be seizure of the rest at the commencement of the suit; and opportunity to be heard. These requirements are satisfied by the procedure prescribed in the statutes of California. There

is a seizure or its equivalent. And the published summons to the depositors named as parties defendant is supplemented by the notice directed to all claimants whatsoever."

The procedure in the *California* case was substantially the same as in the present *New Jersey* case. The principles of law have been declared, and no substantial question now exists.

The appellant asserts that the order fixing the time and place of final hearing does not contain the name of any claimant or describe the property, and that it does not refer to the character of the proceeding. The appellant then states that a summary of the order is all that the statute requires to be published, and then concludes that the statute fails to provide due process.

In order that there may be no misconception of the nature of the order, and the publication made in compliance with the order, a copy of the order, which appears on page 53a of the printed record below is hereao attached, as "Exhibit 1", and a copy of the publication of the notice of the order fixing a time and place of hearing, which appears on page 55a of the printed record below, is hereto attached, as "Exhibit 2".

A reading of the order and of the publication of notice indicates the frivolous nature of the assertion made by the appellant as to the adequacy of the notice prescribed by the statute.

The appellant complains that the statute did not require that the publication of notice be addressed to the claimants, although the publication itself did contain the names. It is sufficient to point out that in *Mullane v. Central Hanover Bank & Trust Company, supra,* where the statute provided for notice by publication, this was held to be adequate, even though the statute in that case provided that

the notice be addressed to the claimants generally "without naming them", and the publication itself did not name them. The court said:

> "We overrule appellant's constitutional objections to published notice insofar as they are urged on behalf of any beneficiaries whose interests or addresses are unknown to the trustee."

It is submitted that the statements of principles made in the foregoing case make it unnecessary that the adequacy of notice by publication in escheat proceedings be reviewed again.

2. The appellant's next ground is that the judgment in escheat did not protect the defendant corporation from the assertion, by the owners of the property, of their claims against it.

The decisions of the Supreme Court of the United States have established that the law is to the contrary.

As said in *Issacs v. Hobbs*, 282 U. S. 734, 738, 75 L. Ed. 645, 666:

> "The court originally acquiring jurisdiction is competent to hear and determine all questions respecting title, possession and control of the property * * *."

The trial court in the present case had jurisdiction by virtue of the service of the petition in escheat upon the appellant corporation. *In Security Savings Bank v. California*, 263 U. S. 282, 287, 68 L. Ed. 301, 307, the court said:

> "Seizure of the deposit is effected by the personal service made upon the bank. Thereby the res is subjected to the jurisdiction of the court."

In *Williams v. Armroyd*, 11 U. S. 423, 432, 3 L. Ed. 392, 395, the court said:

> "The sentence of a competent court, proceeding in rem, is conclusive with respect to the thing itself, and

operates as an absolute change of the property. By such sentence, the right of the former owner is lost, and a complete title given to the person who claims under the decree. No court of coordinate jurisdiction can examine the sentence."

Similarly, in *Hilton* v. *Guyot*, 159 U. S. 113, 168, 40 L. Ed. 95, 110, the court declared:

"Other judgments, not strictly in rem, under which a person has been compelled to pay money, are so far conclusive that the justice of the payment cannot be impeached in another country, so as to compel him to pay it again."

That the payment by the appellant to the State of New Jersey under the escheat decree discharges it from any obligation to pay again is clear. In *Canada Southern R. R. Co.* v. *Gebhard*, 109 U. S. 527, 537, 27 L. Ed. 1020, 1024, it is said:

"Anything done at the legal home of the corporation, under the authority of such laws (of the state of incorporation) which discharges it from liability there, discharges it everywhere."

In *Security Savings Bank* v. *California*, 263 U. S. 282, 286, *supra*, the court said:

"If the deposit is turned over to the state, in obedience to a valid law, the obligation of the bank to the depositor is discharged. It is no concern of the bank's whether the state receives the money merely as a depositary or takes it as an escheat."

And in *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 242, 88 L. Ed. 692, 702, the court said:

"Since the bank is the debtor to its depositors, it can interpose no due process or contract clause objection

to the payment of the claimed deposits to the State, if the State is lawfully entitled to demand payment, for in that case payment of the debt to the State, under the statute, relieves the bank of the liability to its depositors."

The statement of the principle in the above cases finds expression in the New Jersey statute, which declares that the decree in escheat shall discharge the appellant from any claim by the former owners.

It is a matter of common learning that an action by an owner of stock against his corporation would have to be of a possessory (replevin) or of an equitable nature. Neither of such actions could be maintained against the corporation in a foreign jurisdiction and if the owner was thereby compelled to bring his action in New Jersey, which is the home of the defendant corporation, and under whose laws it exists, then the defendant could plead the judgment of the New Jersey Courts and this would be a complete answer to the peril of a suit.

We may point out that the situation raised here under this Escheat Act puts the defendant corporation, which is not the rightful owner of this property, in the same position as a defendant in an interpleader. Its sole responsibility is to turn over to the Court that which is not its property but is the property of another for disposition by the court in accordance with the laws of New Jersey.

We think that, under the long line of decisions in this court, no substantial question is raised here.

3. The appellant's next question is as to whether shares of the capital stock of a New Jersey corporation and dividends declared upon such stock constitute property within the State, where the last known owners of the shares of stock were not residents of the State of New Jersey.

It has long been settled that the State of incorporation has jurisdiction over the shares of stock and the dividends declared thereon.

In *Corry* v. *Baltimore*, 196 U. S. 466, 476, 49 L. Ed. 556, 562, it was stated:

> "The sovereignty which creates a corporation has the incidental right to impose reasonable regulations concerning the ownership of the stock therein."

In *Tax Commission* v. *Aldrich*, 316 U. S. 174, 180, 86 L. Ed. 1358, 1370, the court said:

> "The corporation owes its existence to Utah. Utah law defines the nature and extent of the shareholders' interest in the corporation. Utah law affords protection for these rights. Utah has power over the transfer by the corporation of its shares of stock."

In *Schuylkill Trust Co.* v. *Pennsylvania*, 302 U. S. 506, 516, 82 L. Ed. 392, 398, it is stated:

> "The shares represent a property interest, an aliquot proportion of the whole corporate assets. The shareholders, whether domestic or foreign, depend for the preservation and protection of this property upon the law of the state of the corporation's domicile. The property right so represented is of value, arises where the corporation has its home, and is, therefore, within the taxing jurisdiction of the state * * *."

In *Northwest Airlines* v. *Minnesota*, 322 U. S. 292, 294, 88 L. Ed. 1283, 1285, the court, discussing the source of the power of the State of Minnesota to tax property owned by a Minnesota corporation, said:

> "The relation between Northwest (the corporation) and Minnesota—a relation existing between no other State and Northwest—and the benefits which this relation affords are the constitutional foundation for the taxing power which Minnesota has asserted * * *

> No other State is the State which gave Northwest the power to be as well as the power to function as Northwest functions in Minnesota; no other State could impose a tax that derives from the significant legal relation of creator and creature and the practical consequences of that relation in this case."

While the rights and obligations arising from the issuance of stock by a corporation and the declaration of dividends on a corporation's stock are not founded on contract, nevertheless decisions as to the control of a state over obligations of a corporation chartered under the laws of that state are equally apt as to shares of stock and dividends declared on stock of such a corporation.

In *Blackstone* v. *Miller*, 188 U. S. 189, 205, 47 L. Ed. 439, 445, it is said:

> "It is plain that the transfer (of a deposit in a New York bank, upon the death of a depositor domiciled in Illinois) does depend upon the law of New York, not because of any theoretical speculation concerning the whereabouts of the debt, but because of the practical fact of the power over the person of the debtor. This principle has been recognized by this court with regard to garnishments of a domestic debtor of an absent defendant. What gives the debt validity? Nothing but the fact that the law of the place where the debtor is will make him pay * * *
>
> "Power over the person of the debtor confers jurisdiction."

In *Pennington* v. *Fourth National Bank*, 243 U. S. 269, 271, 61 L. Ed. 713, 715, it is stated:

> "The Fourteenth Amendment did not, in granting due process of law, abridge the jurisdiction which a State possessed over property within its borders, regardless of the residence or presence of the owner. That jurisdiction extends alike to tangible and intangible property. Indebtedness due from a resident to a

non-resident—of which bank deposits are an example—is property within the State."

See also *Security Savings Bank* v. *California*, 263 U. S. 282, 68 L. Ed. 301, and *Anderson National Bank* v. *Luckett*, 321 U. S. 233, 88 L. Ed. 692.

4. The appellant asserts that the New Jersey statute, while attempting to deprive the claimants of their remedy against appellant, did not afford to the claimants an adequate substitute, and that thereby the obligation of contracts was impaired.

The New Jersey statute provides that any person whose property has escheated to the State may, within two (2) years after the filing of the final decree in the Court of Chancery, apply to the said court to reopen the decree, and upon proof of lack of actual knowledge of the escheat proceedings and on proof of ownership, the court may reopen the decree and direct the State Treasurer to repay the escheated moneys to the claimant, less the expenses and charges accrued or paid out by reason of the entry of the original decree.

This provision is similar to that in the Pennsylvania statute (where the period given to claimants was three (3) years), held to be valid in *United States* v. *Klein*, 303 U. S. 276, 82 L. Ed. 840, 58 S. Ct. 536, and in *United States* v. *Klein*, 106 F. 2d 213, certiorari denied, 308 U. S. 618, 84 L. Ed. 517, 60 S. Ct. 295; to the provision in the California statute (where the period given to the claimant was five (5) years), held valid in *Security Savings Bank* v. *California*, *supra;* to the provision in the Kentucky statute (where the claimant was given a period of five (5) years to file claim against the state), held valid in *Anderson National Bank* v. *Luckett, supra.*

See also *Gorny v. Trustees of Milwaukee County Orphans Board*, 93 F. 2d 107, where the Wisconsin statute was held to be valid even though the claimant was given no substitute remedy against the state; certiorari denied, 305 U. S. 559, 82 L. Ed. 1527; motion for rehearing denied, 305 U. S. 576, 83 L. Ed. 362.

This ground is no longer a substantial one.

We submit that the questions presented in this appeal have long ago been so definitely determined by the Supreme Court of the United States that no substantial question is presented by this appeal entitling appellant to invoke the jurisdiction of the Supreme Court of the United States.

MOTION TO AFFIRM OR DISMISS

Wherefore, Appellee respectfully moves that the within appeal be dismissed or that the judgment of the Supreme Court of New Jersey be affirmed.

Theodore D. Parsons,
Attorney General of the State of New Jersey.
Emerson Richards,
Deputy Attorney General.

EXHIBIT 1

ORDER FIXING TIME AND PLACE OF FINAL HEARING

(Filed March 21, 1949)

And now, this 21st day of March, 1949, upon motion of Emerson Richards, Deputy Attorney General of the State of New Jersey and Attorney for petitioner,

It is ordered that a hearing upon the petition heretofore filed in this cause be fixed for the 27th day of April, 1949, at 10:00 o'clock A. M., at the Court Room, State House Annex, Trenton, New Jersey, and

It is further ordered that notice of the time and place of final hearing be given by petitioner, in accordance with the provisions of R. S. 2:53-21, by advertising in a newspaper of general circulation in Mercer County once a week for three (3) successive weeks, addressed to and containing the last known names and addresses of the persons or corporations apparently having unclaimed beneficial interest in, or ownership of, the personal property sought to be adjudged to escheat to the State in this cause, and directing that any of the said persons or corporations or any other person or corporation claiming a beneficial interest in, or ownership of, the personal property or any part of the personal property mentioned in the petition, shall file with the Court his or its claim in writing, at least five (5) days prior to the date fixed for the hearing, provided however, that in the event the value of the personal property of any one apparent owner is less than Fifty ($50) Dollars, the advertisement need not contain the name or address of such person or corporation.

(S.) WILFRED H. JAYNE,
Judge, S. C.

EXHIBIT 2

AFFIDAVIT OF PUBLICATION

(Filed April 20, 1949)

STATE OF NEW JERSEY,
Mercer County, ss:

SUPERIOR COURT OF NEW JERSEY, CHANCERY DIVISION,
MERCER COUNTY

Docket 169/14

THE STATE OF NEW JERSEY, by Theodore D. Parsons, Attorney General of New Jersey, *Plaintiff*,

vs.

STANDARD OIL COMPANY, *Defendant*

Civil Action

NOTICE OF ORDER FIXING TIME AND PLACE OF HEARING

Notice is hereby given to the persons named below, and to any other person or corporation claiming a beneficial interest in or ownership of, the personal property described below, that the Superior Court of New Jersey, Chancery Division, has fixed a date for final hearing for Wednesday, the 27th day of April, 1949 at 10 o'clock A. M., in the Court Room, State House Annex, Trenton, New Jersey, on the petition for escheat to the State of New Jersey of moneys and personal property, consisting of shares of stock of the above-named company, dividends declared upon the shares of stock of the said company, bond and debentures issued by the said company, interest and coupons on bonds and debentures issued by the said company, deposits made with the said company on account of liberty bond subscriptions, unpaid wages and other personal property held by, in the

possession of or owing by the said company, the owners or beneficial owners of, or persons entitled to, such personal property having been and having remained unknown for the period of fourteen (14) successive years prior to the filing of said petition, or the whereabouts of such former owners or beneficial owners, or persons entitled, having been and having remained unknown for the period of fourteen (14) successive years prior to the filing of the said petition, or such property having remained unclaimed for the period of fourteen (14) successive years prior to the filing of the said petition, and including the following:

Joseph F. Cormore
Rm. 912, 1 Exchange Place, N. Y. C.
Unclaimed Dividends $37.50

Arturo Fernandez
Calle 56 No. 486 Merida, Yuc., Mexico
Unclaimed Dividends $66.15
and 4 shares Common stock

Mrs. Eleanor C. Hildebrand
% Union & Planters Bank & Trust Co.,
Memphis, Tenn.
Unclaimed Dividends $37.50

Albert J. Kalmary
212 Freeman St., N. Y. C.
Unclaimed Dividends $25.00

Robert E. L. Night, Jr.
% American Exchange National Bank,
Dallas, Texas
Unclaimed Dividends $50.00

Richard C. Kroggel
149 15th St., Wheeling, W. Va.
Unclaimed Dividends $25.00

Mrs. Janice A. Patterson
1673 Columbia Rd., Wash., D. C.
Unclaimed Dividends $36.34

Joseph B. Webster
325 Lake St., River Forest, Ill.
Unclaimed Dividends $37.47
and 3 shares Common stock

Mrs. Emma Westenhaver
Logan, Ohio
Unclaimed Dividends $25.00

Mrs. Elizabeth A. Donovan Duffley
Hotel Biltmore, 43rd St. &
Madison Ave., N. Y. C.
Unclaimed Dividends $52.50

Mrs. Anne W. Geigerman
Sherman Square Hotel, Broadway
& 70th St., N. Y. C.
Unclaimed Dividends $43.75

Jacob J. Hawes
101 E. 41st St., Kansas City, Mo.
Unclaimed Dividends $35.00

Miss Frances E. Beaudett
86 Woodside Terrace, Springfield, Mass.
1 share Common stock
Unclaimed Dividends $7.47

Mrs. Christina Bolton
106 Bogard St., Charleston, S. C.
1 share Common stock
Unclaimed Dividends $15.27

Douglas Clark
648 Maple Avenue, Elizabeth, N. J.
1 share Common stock
Unclaimed Dividends $4.72

Eugene Denos
342 W. 22nd St., N. Y. C.
3 shares Common stock
Unclaimed Dividends $11.17

John P. Hale
15 Claremont Ave., N. Y. C.
5 shares Common stock
Unclaimed Dividends $4.87

Walter E. Johnson
36 Irving St., West Springfield, Mass.
1 share Common stock
Unclaimed Dividends $11.50

Leopold T. Sanchez
Calle De Bucarelli No. 41, Mexico
5 shares Common stock
Unclaimed Dividends $1.88

William T. Sanders
1208 Kearney Stores, Manhattan, Kan.
1 share Common stock
Unclaimed Dividends $1.22

Mrs. Agnes S. Thompson, Route 1,
Box 256, Watsonville, Calif.
1 share Common stock
Unclaimed Dividends $3.22

The said petition is on file in the Office of I. Grant Scott, Esq., Clerk of the Superior Court of New Jersey, and is open to the examination of any party in interest.

Any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the Court his claim, in writing, at least five (5) days prior to the day fixed for the hearing. Unless cause to the contrary is shown, a decree of escheat may be entered.

March 21, 1949.

EMERSON RICHARDS,
Deputy Attorney General of the
State of New Jersey,
800 Schwehm Building,
Atlantic City, N. J.

Fee $70.65 3|28; 4|4-11 Times

ALICE G. BARRY being duly sworn according to law, on her oath says that she is Bookkeeper for The Trenton Times

(Inc.), publishers of The Trenton Evening Times, a newspaper printed and circulated in the City of Trenton, in the County and State aforesaid, and the deponent further states she has personal knowledge that an advertisement, of which the annexed is a true copy, was published in the issues of March 25; April 4-11, 1949.

ALICE G. BARRY.

Sworn and subscribed before me this 11th day of April, 1949.

ANN M. HOPKINS,
Notary Public for N. J.

(1139)

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SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1950.

No. 384.

STANDARD OIL COMPANY,

Appellant,

vs.

THE STATE OF NEW JERSEY, by Theodore D. Parsons, Attorney General of the State of New Jersey.

APPELLEE'S BRIEF.

STATEMENT OF THE CASE.

Standard Oil Company, appellant herein, is a corporation organized in 1882 under the laws of the State of New Jersey, and still subsists under that franchise grant. It maintains its registered office at Flemington, New Jersey, where its stockholders' meetings are held, but transacts no other business in New Jersey (R. 90).

At the time of its incorporation, the company's authorized capital stock was $3,000,000.00, and has since been increased several times.

From time to time, the company has issued shares of its capital stock, and at various times it has declared dividends on its shares of capital stock.

The owners of certain of the shares of stock issued by the company have been unknown or their whereabouts have been unknown for more than fourteen years. The persons in whose names the said shares are listed on the records of the company have not been heard from by the company for more than fourteen years, and it has had no knowledge as to the address of such record owners during such period (R. 8, 25, 75, 77, 198, 199).

The major portion of the dividends declared by the company on its shares of stock have been paid, but certain of the dividends have been unclaimed for more than fourteen years, and the owners of or persons entitled to such dividends have been unknown or their whereabouts have been unknown for more than fourteen years (R. 8, 9, 74, 92, et seq.).

The New Jersey escheat statute (Chapter 155 of Session Laws of 1946, as amended by Chapter 357 of Session Laws of 1947, set forth in Appendix to Appellant's Brief, 1a, et seq.) provides, in Section 3, that whenever the owner, beneficial owner or person entitled to any personal property is unknown or his whereabouts is unknown for the period of fourteen successive years, or where any personal property is unclaimed for the period of fourteen successive years, such personal property shall escheat to the State.

The said statute provides a judicial proceeding to determine whether an escheat has occurred. Such proceeding is initiated, under the statute, by a petition setting forth, inter alia, that the defendant therein named has custody or possession of personal property subject to escheat under the statute. A copy of the petition must be served upon

such defendant, which is required to file an answer within a time limited. Such answer must give such information as the defendant may have with relation to the last known address of any person having any interest in, together with any other information relating to, such personal property. Upon the filing of the defendant's answer, a time and place for hearing is fixed by the court. A notice containing a summary of the order designating the time and place, as approved by the court, must be published in a manner directed by the court once a week for three successive weeks in a newspaper of general circulation designated by the court. Such notice must direct that any person who may claim to be entitled to the property sought to be escheated shall file his claim with the court at least five days before the time fixed for hearing. Any person claiming to be so entitled shall file his claim in the form of an answer to the petition. The court is required, at the time of hearing, to take such evidence as may be proper, and proceed to determine the cause and enter such final decree as shall be equitable and in conformity with the provisions of the act (Sections 7, 8, Appendix to Appellant's Brief, pages 2a, 3a, 4a).

Any decree of escheat automatically operates as a full, absolute and unconditional release and discharge of the defendant from any and all claim, demand or liability to any person other than the State Treasurer with respect to such property, and such decree may be pleaded as an absolute bar to any action brought against such defendant with respect to such property by any person other than the State Treasurer (Appendix to Appellant's Brief, page 5a, Sec. 10).

Any person whose property may have escheated to the State may, within two years after the filing of a final decree, apply to the court to reopen the decree, and upon proof of lack of actual knowledge of the escheat proceedings and

proof of ownership, the court may in its discretion reopen the decree and direct the State Treasurer to repay to the claimant the moneys received by the State Treasurer by reason of such decree, less the expenses and charges accrued or paid out by reason of the entry of the original decree (Appendix to Appellant's Brief, page 7a, Sec. 18).

On July 27, 1948, pursuant to the provisions of the above statute, the State of New Jersey instituted the present proceeding, naming the Standard Oil Company as defendant, for the escheat of the above mentioned shares of stock and dividends, as well as other personal property not presently before this Court. As required by the statute, the State filed a petition, setting forth the relevant facts, and served a copy upon the defendant. The defendant filed an answer, setting forth the names and last known addresses of persons entitled to dividends on its capital stock unclaimed over fourteen years (R. 14-24), and the names and last known addresses of the record owners of its capital stock where the whereabouts of such record owners had been unknown to it for fourteen years (R. 27-28). The defendant subsequently amended its answer. The answer and amended answer included the following defenses:

1. That the said dividends and shares of stock had no situs in New Jersey for the purpose of escheat (R. 209-211);

2. That the notice to the claimants provided by the statute was inadequate and insufficient to render the proceeding due process of law (R. 211-213);

3. That the statute impaired the contracts of the persons entitled to the dividends and shares of stock in violation of Article I, Section 10, paragraph 1 of the Constitution of the United States (R. 213-215); and

4. That because of the foregoing the judgment of the Court would not protect the appellant from liability to the claimants and stockholders whose dividends and stock were escheated to the State and that, therefore, such judgment would deprive the appellant of its property without due process of law (R. 209-215).

On March 21, 1949, the Court entered an order (R. 53), that a final hearing on the petition be held on April 27, 1949, and directed that notice of the time and place of such final hearing be given by advertisement once a week for three successive weeks in a newspaper of general circulation in Mercer County (in which the capital of New Jersey is located, and in which the Court sits), addressed to and containing the names and addresses of the persons apparently having an unclaimed beneficial interest in, or ownership of, the property sought to be escheated, and directing any of the said persons or corporations or any other person or corporation claiming a beneficial interest in, or ownership of, such property, to file with the Court his or its claim in writing, at least five days prior to the date fixed for hearing.

In accordance with the said order, publication was made by the State of New Jersey in the Trenton Times on March 25, April 4 and April 11, 1949. Proof of Publication was filed thereafter (R. 55-59 inc.).

No person filed a claim prior to the time fixed for hearing, and no person other than the State and the defendant appeared at the time and place fixed for hearing.

After hearing the evidence presented, and upon proof of publication, the Court, on December 8, 1949, entered a Final Decree (R. 232), by which it was ordered and adjudged and decreed that the said shares of stock and divi-

dends, as well as the other property set forth in the petition, had escheated to the State.

Upon appeal to the Supreme Court of New Jersey, the judgment was modified by excluding therefrom all claims barred by the operation of the Statute of Limitations of New Jersey (R. 252) and all property of persons whose names were not set forth in the published notice (R. 262). The Supreme Court held that the Statute of Limitations did not operate as to dividends, and the appellant did not contend that the shares of stock were affected by the Statute of Limitations.

The judgment, as modified, covers, therefore, the shares of stock and dividends of the persons whose names are contained in the published notice.

The Supreme Court of New Jersey rejected the defenses of the appellant (1) that the statute and the judgment denied due process to the owners of the shares of stock or dividends, (2) that the statute impaired the obligation of contracts, and (3) that the shares of stock and dividends of the Standard Oil Company, a New Jersey corporation, were not subject to escheat to New Jersey.

A dissenting opinion was filed as to the portion of the majority opinion dealing with notice. There was no dissent from the opinion of the Court as to impairment of contracts or situs.

The appellant has set forth that it intends to urge the assignments of error as to adequacy of notice, impairment of contracts and situs (Appellant's Brief, page 10).

SUMMARY OF ARGUMENT.

1. The State of New Jersey, like other states, has the power to take possession of real or personal property which is without an owner, either because the owner has died intestate without known heirs or next of kin, or because the owner has abandoned it, or because the owner is unknown or his whereabouts is unknown.

The use of the word "escheat" in the statutes providing for such taking is not to be considered as limiting the exercise of the power to those situations in which escheat occurred under the old common law in England. The word as used in the old common law can have no application in this country, because neither real nor personal property is held here by feudal tenures.

Under the old common law, only land escheated. Personal property, not held by tenures, was not subject to escheat. When title to personal property became vacant, it was termed "bona vacantia", and was taken by the Crown as a matter of right in the exercise of its sovereign power, *Re Barnett's Trusts* (1902), 1 Ch. (Eng.) 847, 3 B. R. C. 198.

In this country, where there are no feudal tenures, no distinction is made between real and personal property, and the sovereign power is termed "escheat", whether applied to real or personal property.

Not only has the term "escheat" been taken from the law of feudal tenures to apply to property not so held, and to personal as well as real property, but it applies to intangible property as well as tangible.

Further, the term of escheat applies not only where the owner has died intestate, leaving no known heirs or next

of kin, but it has been extended, as said above, to all cases where the sovereign power is exercised to take property of which the ownership is vacant, whether upon death of the owner, or because he has abandoned it, or because he is unknown or his whereabouts is unknown.

The power of escheat, as above defined, inheres in every state by virtue of its sovereignty. The terms and conditions under which it shall be exercised are defined by legislative enactment.

The power of escheat exists except insofar as it has been surrendered by virtue of the Federal Constitution. The Federal Constitution contains no restriction upon the power of escheat itself. To determine whether a statute by which the state provides for the exercise of the power of escheat violates any constitutional prohibition, we must look to the constitution.

The appellant asserts that the New Jersey escheat statute violates the Federal Constitution in two respects, first, that it does not afford to the unknown owners due process of law, and second, that it impairs the obligations of contracts.

2. The appellant's argument of want of due process is based upon the fact that the statute provided for notice by publication upon the unknown owners. Recognizing that this form of notice may be used where the owners or their whereabouts are unknown, the appellant asserts the statute is defective because, while it provides for a judicial procedure, and prescribes that a hearing shall be had to determine whether an escheat has occurred, the provision for publication is insufficient. The statute declares that "a notice containing a summary of the order designating a time and place of hearing, *as approved by the court*, shall be published *in a manner directed by the court* * * * once a week

for three successive weeks in a newspaper of general circulation *designated by the court.*"

The appellant asserts that the statute fails to provide adequate notice, because it is left to the court to decide what the notice shall contain. There is nothing in the statute which directs any notice which does not conform to due process, and it is implicit that the court, in approving the notice, will approve only what is consonant with due process. The language used in the statute is similar to that customarily used in providing for notice by publication. A recent illustration of this is seen in the Act of Congress, approved June 25, 1948, c. 646, as amended May 24, 1949, 28 U. S. C. 2001.

The appellant then states that the notice, as published, was inadequate. However, a reading of the published notice (R. 55, et seq.) sets forth the name of the court, the docket number, the caption, the nature of the proceeding, the time and place fixed for hearing, that the property sought to be escheated consists of shares of stock of the Standard Oil Company and dividends on shares of stock of the company, the name and last known address of the last known owner in each case, stating the number of shares owned by each and the amount of dividends to which each is entitled. The notice directs each such person and any other claimant to file his claim in the court, and states that unless cause to the contrary is shown, a decree of escheat may be entered.

Every element necessary to inform the owner or claimant of the facts is set forth in the notice. Notice and the opportunity to be heard constitute due process, and both are afforded in this case.

The appellant then asserts that publication in a newspaper in Trenton, New Jersey, the capital of the State, and

the place where the court sits, is not adequate. A similar contention was raised in *Security Savings Bank v. California*, 263 U. S. 282, 68 L. Ed. 301. In that case, publication was made in Sacramento, California, although the deposits sought to be escheated had been made in a bank located in another county. This court dismissed the objection, stating it was a matter for the legislature to consider, and, since the court of last resort of the state had considered the notice adequate, this court would not say the view of the legislature and the state courts was so unreasonable as to constitute a denial of due process.

3. The next point of attack by the appellant is that the statute impairs the obligation of contracts. This view is not tenable. The escheat statute merely substitutes the state for the unknown owner. Upon performance by the appellant, it is discharged of all liability. The unknown owner is given a right of action against the State after the decree of escheat, just as he had against the company before the decree of escheat. There is no impairment of any obligation of contracts.

Again, the statute of escheat is an exercise of the police power, and as said in *Philadelphia Electric Company Case*, 352 Pa. 457, 43 A. 2d 116 (1945):

> "The constitutional guarantee in such connection is likewise subject to an appropriate exercise of the State's police power."

The foregoing discussion has been upon the appellant's theory that a contractual relationship exists. This is not true, however, in New Jersey. As said in *Neilson v. Russell*, 76 N. J. L. 40, 69 A. 476 (Supreme Ct. 1901), stock in a New Jersey corporation is a proprietary right, relating to

"an anomalous species of intangible property that owes its existence solely to the laws of this State * * *"

Therefore, whether because the escheat statute makes no change in the obligation of contracts, or because the constitutional guarantee against the impairment of the obligation of contracts is subject to an appropriate exercise of the police power, or because no contractual obligation is involved, the appellant's objection falls.

4. The appellant asserts that the property here involved does not have a situs in New Jersey. It must be first noted that this is a factual question which has already been determined by the judgment below, and, in itself, has no relation to any constitutional question.

The concept of situs, as applied to tangible property, cannot be applied to intangibles, which can have no actual situs anywhere in the sense that real property or tangibles have. In the case of intangibles, it is not the quality of occupying space, but the element of control that governs. In the case of shares of stock in a corporation, and dividends on the stock, the State which gave the corporation life, and under whose authority it subsists, has dominion, through its control of the corporation. It must follow that such shares of stock and dividends must be held situate in the state of incorporation, in this case, the State of New Jersey.

ARGUMENT.

I. Power of the state to escheat personal property.

"Escheat", under the English common law, denoted an incident of feudal tenures of lands, and did not apply to lands held allodially. *Burgess v. Wheate*, 1 Eden 177, 28 Eng. Rep. Full Reprint 652. Personalty in England was not held under feudal tenures and did not escheat. However, the Crown took personal property under conditions paralleling those under which lands escheated. The taking was explained by the doctrine of bona vacantia. *Anderson National Bank v. Luckett*, 321 U. S. 233, 88 L. Ed. 692 (1943).

In the United States, where lands are held not by feudal tenures, but allodially, the States, without exception, have held that lands are subject to escheat to the State. The same word is used, although the basis is essentially different. As said in *Wallace v. Harmstead*, 44 Pa. 492, 501 (1863):

> "Nothing about it but the name is feudal."

Escheat of lands in this country is explained in *Commonwealth of Kentucky v. Thomas' Administrators*, 140 Ky. 789, 131 S. W. 797 (1910), as follows:

> "Where there is no original claimant, the property is taken possession of by the state for the benefit of all. A convenient and sufficient name is that given in the statute, 'Escheat'."

The term escheat has been applied in this country to the sovereign right of appropriation not only of lands, but of personal property as well. Justice Cardozo said, in *Matter*

of People (In re Melrose Avenue), 234 N. Y. 48, 136 N. E. 235 (1923):

> "Escheat in the days of Henry VI was the privilege of the feudal lord, exercised for his own good * * * Escheat today is not the privilege of one, but the collective right of all when the individual right has failed * * *
>
> "'Escheat' preserves the name, but ignores the origin of the feudal prototype * * *.
>
> "What was once an incident of tenure has become an incident of sovereignty. With tenures abolished, succession is by like right whether the subject of escheat is personal estate or real."

Forty-four of the States and Alaska have passed statutes which provide for the escheat of personal property as well as of real estate. (See Appendix, page 1a.)

It is immaterial whether the property is tangible or intangible. In 30 C. J. S. 1167, Title "Escheats", Sec. 3a, it is said:

> "The doctrine of escheats is, in effect, applied to personalty as well as to realty. The doctrine extends to intangible as well as to tangible property, and generally to all rights of property of any nature."

Escheat, under the feudal system, occurred when the owner of real property died intestate and without heirs. In this country, however, the concept of escheat is not so limited. Just as escheat applies to personal property as well as to real, to intangible as well as tangible, so does it apply not only when the owner has died intestate without any one to inherit, but also when the property is abandoned or unclaimed, or when the owner is unknown or his whereabouts are unknown.

In *Germantown Trust Co. v. Powell*, 265 Pa. 71, 77, 101 A. 441 (1919):

> "There can be no room for doubt that the Commonwealth, by virtue of its sovereign power, may take charge of property abandoned or unclaimed for a period of time, or which has no known owner."

In *Brooklyn Borough Gas Co. v. Bennett*, 277 N. Y. S. 203, 154 Misc. 106 (Supreme Ct., 1935), the court said:

> "The jurisdiction of a State over property within its borders under circumstances indicating an abandonment by the owners thereof has been repeatedly sustained."

In *Montello Salt Co.*, 88 Utah 283, 53 P. 2d 727 (1936), in which was involved a provision in the State constitution providing for the escheat of unclaimed shares of stock of Utah corporations, and of dividends on such shares, the court said:

> "That it is within the power of the legislature to determine what and when unclaimed shares or dividends of corporations may be forfeited or escheat may not be doubted from the authority of the provision of the constitution above quoted or without it * * *"

In the *Matter of Escheat of Moneys in the Custody of the United States Treasury*, 322 Pa. 481, 184 A. 757 (1936), the court said:

> "It is well settled that the State has power to take possession of unclaimed property as an escheat."

The foregoing case was affirmed on appeal to this court in *United States v. Klein*, 303 U. S. 276, 82 L. Ed. 840 (1938), in which it was said:

"Neither the nature of the suit in the district court nor the federal statutes preclude transfer of or change in the interest of the *unknown claimants*, either by judicial proceedings in the state court or otherwise, pending final disposition of the fund by the federal court" (Italics ours).

In a connected case, *United States v. Klein*, 106 F. 2d 213, (C. C. A. 3, 1939), the court said:

"Obviously an escheat proceeding cannot be defeated because the unknown owner cannot be located."

Certiorari denied, 308 U. S. 618, 84 L. Ed. 517.

Anderson National Bank v. Luckett, 321 U. S. 233, 88 L. Ed. 692 (1943), states:

"The escheat or appropriation by the State of property in fact abandoned or without an owner is as old as the common law."

In *Connecticut Mutual Life Ins. Co. v. Moore*, 333 U. S. 541, 92 L. Ed. 863 (1947), it is said:

"The right of appropriation by the State of abandoned property has existed for centuries in the common law."

In *Roth v. Delano*, 338 U. S. 226, 94 L. Ed. 6 (1949), this court recognized the right of the State to escheat property abandoned by the owners or belonging to missing persons.

In the present case, the court below said (R. 251):

"In modern usage 'escheat' signifies the falling of property to the sovereign for want of an owner; and this category embraces not only property which has

no other owner, but also property whose owner or whose owner's whereabouts is unknown."

The use of the word "escheat" in this country is, therefore, merely the extension of the word to the concept that all property, real and personal, tangible or intangible, may be appropriated by the state, where it has been lost to the original owner, either upon his death leaving no one entitled by will or inheritance to succeed to his interest, or where it has been abandoned and the owner has failed to exercise dominion over it, or where the property's owner is unknown or his whereabouts is unknown, or where the property has no owner. This use of the term "escheat" to denominate the comprehensive right of the State to take and dispose of such personal property is manifested by the exercise of the power in the statutes of the various states, and supported by the judicial decisions. In the instant case, both the power of the State of New Jersey to enact such legislation and the validity of the statute have been affirmed by the court of last resort of the State.

The appellant's challenge of this power of the State is supported by nothing more than a reference to a long-since outmoded and inappropriate version of the old English common law, which has grown with the march of time and events, as is its great virtue, to have an entirely different concept of this power of the sovereign States.

The appellant has cited a number of English cases dealing with the power of the English Crown to take property which is bona vacantia. It seeks to distinguish between cases where the property is without an owner and those where the owner is unknown, with the implication that the Crown has no rights in the latter case. The appellant ignores the power of Parliament to enact legislation in either

situation. It cannot be supposed that Parliament lacks such power. As said in 1 Kent's Commentaries 447:

> "It is a principle in the English law that an act of Parliament, delivered in clear and intelligible terms, cannot be questioned, or its authority controlled in any court of justice * * *
>
> "If it should happen to be too palpable in its direction to attempt of but one construction, there is no doubt in the English law as to the efficacy of the statute. The law of the legislature is the supreme law of the land and demands obedience."

It could not be seriously argued that, if the British Parliament had enacted legislation similar to the New Jersey statute, there would be any doubt as to its validity.

What is true of the British Parliament is equally true of the New Jersey legislature, except insofar as its enactments are subject to the limitations imposed by the federal and state constitutions. As said in *Thorpe v. Rutland & Burlington Rd. Co.*, 27 Vt. 140, 142:

> "It has never been questioned, so far as I know, that the American legislatures have the same unlimited power in regard to legislation which resides in the British Parliament, except where they are restricted by written constitutions."

The State of New Jersey is a sovereign and has all the sovereign powers not surrendered to the United States. As said in *McCulloch v. State of Maryland*, 4 Wheat. (U. S.) 316, 410, 4 L. Ed. 579, 602 (1819):

> "In America, the powers of sovereignty are divided between the government of the United States and those of the States. They are each sovereign, with respect

to the objects committed to it, and neither sovereign with respect to the objects committed to the other."

The appellant recognizes the sovereignty of the State of New Jersey, but seeks to measure and limit its powers by a comparison with those of the British Crown. This it cannot do. As said in *Wheeler v. Smith*, 9 How. (U. S.) 55, 78, 13 L. Ed. 44, 55 (1850):

> "The sovereign will is made known to us by legislative enactment. And to this we must look in our judicial action instead of the prerogatives of the crown. The State, as a sovereign, is parens patriae."

The absolute extent of the powers which may be exercised by the legislature, except as limited by the state and federal constitutions, is set forth in *Commonwealth, ex. rel. v. Reeder*, 171 Pa. 505, 33 A. 141 (1895), as follows:

> "In that wide domain not included in either of those boundaries the right of the people through the legislature to enact such legislation as they choose, is absolute."

In *Farrington v. Tennessee*, 5 Otto (95 U. S.) 679, 24 L. Ed. 558 (1877), it is said:

> "Every state has a sphere of action where the authority of the National Government may not intrude. Within that domain the State is as if the Union were not."

When one asserts that a state is without power in any field of legislation, it must be assumed that he has examined the federal and state constitutions, and has found in one or the other a prohibition against the exercise of such power.

If so, he is required to point out the applicable constitutional provision. As said in *Baldwin v. Missouri*, 281 U. S. 586, 598, 74 L. Ed. 1056, 1063, 50 S. C. 436:

> "The burden is not in the State to establish the constitutionality of its laws * * * The burden rests upon him who assails a statute to establish its unconstitutionality."

It is presumed, when a legislature enacts a statute, that it has acted in accordance with its powers, and not in violation of any constitutional prohibition. As said in *Union Pacific R. R. Co. v. U. S. (Sinking Fund Cases)*, 99 U. S. 700, 719, 25 L. Ed. 496, 501 (1879):

> "Every possible presumption is in favor of the validity of a statute, and this presumption continues until the contrary is shown beyond a rational doubt."

When New Jersey entered the Federal Union in 1789, it did so as an independent sovereign in which its citizens retained all the right, privileges and powers of a democratic people, except those which were specifically surrendered to the Federal Union. The powers not surrendered, and therefore retained by the people of New Jersey, included that of dealing with real and personal property whose owner or whose owner's whereabouts is unknown, or which is abandoned or unclaimed or without an owner, and the power to "escheat" such property under such conditions as it should, by its legislature, prescribe, subject, always, to the limitation that such conditions do not otherwise infringe upon the federal constitution.

For many years the State of New Jersey, by statute, has provided for the escheat of real property. Not until 1946

did it provide a judicial procedure to ascertain and escheat personal property, including intangibles. The escheat of intangibles had originally not been of much moment, but the important economic advancements which brought an increase in the variety, number and amount of intangible property, have required that the State of New Jersey, like other states, provide a method of dealing with such property when, in the opinion of the legislature, such property should be escheated to the State.

II. Compliance with due process.

1. *The appellant has no standing to question the constitutionality of the statute.*

The appellant is not, of course, the owner of the property involved, either the shares of stock or the unclaimed dividends, but is a mere stakeholder, with no legal or moral right to the res. It can not, therefore, argue due process as to the unknown owners, because, as to the escheated property, it has no interest. As said in *Clark v. Kansas City*, 176 U. S. 114, 44 L. Ed. 392 (1899):

> "A court will not listen to an objection made to constitutionality of an act by a party whose rights it does not affect, and who therefore has no interest in defeating it."

In *Liberty Warehouse Co. v. Tobacco Growers*, 276 U. S. 71, 88, 72 L. Ed. 473, 479 (1927), the Court said:

> "In order to prevail here, the warehouse company must show that enforcement of the challenged judgment would deprive it—not another—of some right

> under the Constitution or laws of the United States properly asserted here."

It must be concluded that the appellant is not affected by the decree of escheat, is not deprived of any right, and, therefore, it has no standing to question the constitutionality of the statute.

2. *No want of due process.*

Even if the appellant were entitled to raise the question of constitutionality, its argument that the judgment was lacking in due process is not tenable.

The appellant centers its attack upon the question of notice, asserting that the notice provided by the statute was inadequate and that the notice actually given was likewise inadequate.

The appellant, which for more than fourteen years has not known the whereabouts of the owners of the stock and dividends, accepts the fact that in the very nature of the case, no personal service of notice can be made upon such owners, and that a substitute form of notice is all that the situation permits. It is this substitute in the statute and in the proceedings below which the appellant attacks.

In *Wiley Motors v. Unemployment Compensation Board*, 130 N. J. L. 30, 31 A. 2d 39 (Supreme Ct. 1943), due process is defined as follows:

> "The guaranty of due process demands only that the law shall not be unreasonable, arbitrary or capricious, and that the means selected shall have a real and substantial relation to the object sought to be obtained."

On the question of due process in the field of notice of proceedings affecting property interests, this court said, in *Anderson National Bank v. Luckett*, 321 U. S. 233:

> "What is due process affecting property interests must be determined by taking into account the purpose of the procedure and its effect upon the rights asserted and all other circumstances which may render the proceeding appropriate to the nature of the case."

See also *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 94 L. Ed. 865 (1950).

The purpose of the escheat proceeding is only to determine the disposition of the property. No personal judgment or decree against the unknown owners is sought.

In such cases notice of the proceedings may be by virtue of the statute itself, or by seizure of the res, or by some other means directed by the statute.

In *Anderson National Bank v. Luckett*, 321 U. S. 233, 88 L. Ed. 692 (1943), the court said:

> "The statute itself is notice to all depositors of banks within the State, of the conditions on which the balances of inactive accounts will be presumptively abandoned, and their surrender to the State compelled. All persons having property within a State and subject to its dominion, must take note of the statutes affecting the control or disposition of such property and the procedure they set up for those purposes."

That seizure of the property is notice to the owner has long been recognized. In *The Mary*, 9 Cranch (13 U. S.) 126, 144, 3 L. Ed. 678, 684 (1815), the court said:

> "Where these proceedings are against the person, notice is served personally, or by publication; where they are in rem, notice is served upon the thing itself. This is notice to all those who have any interest in the thing and is reasonable because it is necessary, and be-

cause it is the part of common prudence for all those who have any interest in it, to guard that interest by persons who are in a position to protect it."

In *Pennoyer v. Neff*, 95 U. S. 714, 727, 24 L. Ed. 565, 570 (1877), the court said:

"The law assumes that property is always in the possession of the owner, in person or by an agent, and it proceeds upon the theory that its seizure will inform him, not only that it is taken into the custody of the court, but that he must look to the proceedings authorized by law upon such seizure for its condemnation and sale."

In *Hollingsworth v. Barbour*, 4 Pet. (29 U. S.) 466, 475, 7 L. Ed. 922, 926 (1830), the Supreme Court affirmed the court below, which said:

"The law regards the seizure of the thing itself as constructive notice to the whole world, and all persons concerned in interest are considered as affected by this constructive notice."

Waples, in his book on "Proceedings in Rem", says, page 88:

"Where only the interested owners need know, since only they could complain of want of notice, seizure is sufficiently extensive as to them."

In *Anderson National Bank v. Luckett*, 321 U. S. 233, 88 L. Ed. 692 (1943), the court said:

"The statutory procedure, so far as it affects depositors, is in the nature of a proceeding in rem, in the course of which property, against which a claim is as-

> serted, is seized or sequestered, and held subject to the appearance and presentation of claims by all those who assert an adverse interest in it. In all such proceedings, the seizure of the property is itself a form of notice of the claim asserted, to those who may claim an interest in the property. See Corn Exchange Bank v. Coler, 280 U. S. 218, 74 L. Ed. 378, 50 S. Ct. 94, holding constitutional a statute providing for no notice to the owner of a bank other than its seizure."

In the case of intangibles, there can be no physical seizure. But, as said in *Security Savings Bank v. California*, 263 U. S. 262, 68 L. Ed. 301 (1926):

> "Seizure of the res is effected by the personal service upon the bank. Thereby the res is subjected to the jurisdiction of the court."

In the present case, service of process upon the appellant was likewise a seizure of the res, which was thereby subjected to the jurisdiction of the court in the escheat proceedings.

In addition to the notice inherent in the statute itself, and the notice which seizure of the property affords, the escheat statute in the present case has directed that notice by publication be given to the owners whose whereabouts are unknown. The appellant asserts that the statutory provision itself is inadequate, because it does not spell out the form of the notice. How then, is the statutory provision deficient?

The general plan of procedure of the escheat statute is first, the filing of a petition against the defendant named in the petition, setting forth that the defendant has custody or possession of personal property subject to escheat, that the owner of the property has been unknown for fourteen years, or his whereabouts have been unknown for the said period,

or that the property has been unclaimed for fourteen years, etc.; second, the defendant is required, by order of the court, to furnish all information he may have relating to such property and the last known address of the owner; third, the order of the court may contain such other directions as the court may deem appropriate for the determination of the cause, the protection of the property or the disclosure of information pertinent to the prosection of the cause; fourth, upon the filing of the defendant's answer, the court shall, by further order, designate a time and place for hearing; fifth, "a notice containing a summary of the order designating the time and place of hearing, as approved by the court, shall be published in a manner directed by the court once a week for three successive weeks in a newspaper of general circulation designated by the court * * * Such notice shall direct that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file with the court his claim in writing, at least five days prior to the time fixed for hearing * * *" Chapter 155, Session Laws of 1946 (Appendix to Appellant's Brief, 4a).

The statute then provides for a hearing upon any claim presented, the production of evidence at such hearing, determination of the cause and entry of such final decree as shall be equitable (Appendix to Appellant's Brief, 4a). It is provided further that all proceedings "shall be in conformity with the rules and practice of the Court of Chancery * * *"

It is apparent from the requirements of the statute that the summary of the notice required to be published would necessarily include a statement of the action pending, the names of the parties whose property was to be escheated, the nature of their property, and advice to the owner of the

property to come in and defend his right at the hearing. Since the advertisement must be for three successive weeks, and the claim is to be filed at least five days before the hearing, at least twenty days must elapse between the first publication and the hearing.

The appellant argues that the statutory provision for publication of the notice does not afford due process to the owners whose whereabouts are unknown. The legal proposition that the appellant seeks to have validated by this court is, that unless a notice is prescribed in all its details by the statute, and unless the publication itself follows the statute in haec verba, the notice is not due process. For this proposition, the appellant cites no supporting authority.

The statute directs that publication shall be made, and there can be no implication that such publication shall be in violation of any constitutional requirement. It is implicit in the statute rather that all constitutional requirements shall be observed.

In *Philadelphia Company v. Securities & Exchange Commission*, 175 F. 2d 808 (C. A. D. C. 1948), it is said:

> "The words 'after notice and * * * hearing' are words of art in our system of law."

It may likewise be said that the word "publication" is a word of art in our system of law.

The statute, in providing for publication of notice, directs that the notice shall be "as approved by the court". Similar language is customarily used in statutes directing publication. A very recent illustration of the use of such language is seen in the Act of Congress approved June 25, 1948, c. 646, 62 Stat. 958, amended May 24, 1949, c. 139, Sec. 99, 63 Stat. 104, 28 U. S. C. 2001. That statute deals with the sale

of realty sold under any order or decree of any court of the United States, and in subsection (b) provides for hearing "of which *notice to all interested parties shall be given by publication as the court directs* * * *" (Italics ours). The Act of Congress does no more to spell out the form and contents of the notice than does the New Jersey escheat statute. A later section of the Act of Congress, dealing with the sale of personalty, provides that the procedure shall be in accordance with the section dealing with the sale of real estate.

The contention of the appellant, if sustained, would mean that the above provision for publication "as the court directs" would be inadequate and in violation of due process.

The appellant then questions the order fixing the time and place for hearing and directing the publication of notice. The appellant complains that the order does not contain the name of any claimant nor a designation of the character of any claim.

A reading of the order (R. 53) shows that it directs that it shall be addressed to and contain "the last known names and addresses" of the owners of the property sought to be escheated, and directs that any claimant of "the personal property or any part of the personal property mentioned in the petition shall file with the court his or its claim in writing." It would have served no reasonable purpose to have set forth the names and last known addresses of the owners in the order.

The very objection of the appellant to the order shows the captious nature of its argument on due process.

The appellant finally argues that the notice, as actually published, does not comply with due process. The published notice (R. 55) sets forth the name of the court, the docket

number, the caption, the nature of the proceeding, the time and place fixed for hearing, the nature of the property (that it consists, inter alia, of shares of stock of the Standard Oil Company and dividends on shares of that company), the name and last known address of the last known owner of such property, stating the amount of the dividends owned by each such person therein named, or the number of shares of stock owned by him, and directs that any person who may claim to be entitled to the personal property mentioned in the petition, or to any part thereof or interest therein, shall file his claim with the court at least five days prior to the day fixed for hearing, and that unless cause to the contrary is shown, a decree of escheat may be entered.

If the said publication came to the attention of any person who was the owner of any of the property listed therein, it could not be said that, after reading the said publication, he was without knowledge of the fact that his property was the subject of escheat proceedings, or the extent of his property involved, or that a time and place had been fixed for hearing upon the said petition, or that if cause to the contrary were not shown, a decree in escheat would be entered. The appellant has cited no case which gives more information than the notice so published.

We think that the language used by this court in the very recent case of *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, 94 L. Ed. 865 (1950), controls the situation here. The property here sought to be escheated is that of persons whose addresses and whereabouts are unknown. Consequently, no notice other than publication could be given as a practical matter. As to this situation, this court stated in the Mullane case as follows:

> "This court has not hesitated to approve of resort to publication as a customary substitute in another class of case where it is not reasonably possible or practicable

to give more adequate warning. Thus it has been recognized that in the case of persons missing or unknown, employment of an indirect and even a probably futile means of notification is all that the situation permits and creates no constitutional bar to a final decree for closing their rights * * *

"However great the odds that publication will never reach the eyes of such unknown parties, it is not in the typical case much more likely to fail than any of the choices open to legislatures endeavoring to prescribe the best notice practicable."

The appellant complains that the statute did not require that the publication of notice be addressed to the claimants, although the publication itself stated, "Notice is hereby given to the persons named below, and to any other person or corporation claiming a beneficial interest in or ownership of the personal property described below * * *", and did then list the names and last known addresses of the last known owners.

It is sufficient to point out that in *Mullane v. Central Hanover Bank & Trust Company*, 339 U. S. 306, supra, where the statute provided for notice by publication, this was held to be sufficient, even though the statute in that case specifically provided that the notice be addressed to the claimants generally without naming them, and the publication itself did not name them. The court there said:

"We overrule appellant's constitutional objections to published notice insofar as they are urged on behalf of any beneficiaries whose interests or addresses are unknown to the trustee."

The appellant asserts that publication in a newspaper published in Trenton, New Jersey, the capital of the state,

in the county in which the escheat proceedings were instituted and pending, was equivalent to no notice at all. The appellant disregards the determination of the trial court, as affirmed by the court of last resort of the state, that the notice was adequate.

A similar objection to the place of publication was made in *Security Savings Bank v. California*, 263 U. S. 282, 68 L. Ed. 301. In that case publication was made in Sacramento County, the capital seat of the state, instead of in the county in which the bank was located. This court held the objection untenable, saying:

> "The highest court of the State deemed the prescribed publication in Sacramento County reasonable notice. Obviously the question is one of local experience on which this court ought to be very slow to declare that the state legislature was wrong on its facts, or abused its discretion."

Clearly the notice, published as authorized by the statute and prepared as directed by the court, contained every reasonable detail. It is submitted that the statute was not unreasonable, arbitrary or capricious, that the means of notice selected took into account the purpose of the escheat proceeding and the circumstances which made the form of notice chosen appropriate, and that resort to publication of the notice was in keeping with due process and created no constitutional ban to the decree in escheat. *Mullane v. Central Hanover Bank & Trust Co.*, 339 U. S. 306, supra.

The appellant cites *Wuchter v. Pizzutti*, 276 U. S. 13, to support its argument that if a statute fails to require adequate notice, the fact that the Court, although not required by the statute to do so, supplements the statute by providing for notice, makes valid neither the statute nor the procedure. The court below stated that the principle of *Wuch-*

ter v. Pizzutti had no application here. The reason is clear. In the Wuchter case, the court did not acquire jurisdiction over the defendant, because no process was ever served upon him; in the present case, jurisdiction was obtained by seizure of the property. In the Wuchter case, a personal judgment was entered against him. In the instant case the judgment in escheat was not in personam, as to the owners of the property, but affected the property only, and as to the property, there was notice by the very seizure. Again, in the Wuchter case, the notice that the defendant received was not related to the statute, but to supply something lacking in the statute. In the present case, everything was done as the statute required; there was publication of notice approved by the court.

The appellant also relies on *Stuart v. Palmer*, 74 N. Y. 183. It need only be pointed out that in that case the owners were not persons who were unknown or whose whereabouts were unknown.

III. The statute does not violate the constitutional prohibition against impairment of contracts.

The next argument advanced by the appellant is that the statute and the judgment impair the obligation of contracts, which it asserts, "are the basis of the claims of the respective stockholders". It asserts that the statute and the procedure provided thereunder resulting in the judgment "seriously impair and destroy the *contract rights* of the stockholders."

This argument proceeds upon the fallacious theory that the relationship between the stockholders and the corporation is a contractual one. This is not the law in New Jersey, nor is it the modern conception of the relationship. In New

Jersey, the trust relationship inheres in the corporate association. The stockholders are the owners of the corporation. The directors are the trustees of the property for the use of the stockholders, and the stockholders are themselves trustees for each other. *Breslin v. Fries Breslin*, 70 N. J. L. 274, (E. & A. 1904). See also *Neilson v. Russell*, 76 N. J. L. 40, 69 A. 476 (Supreme Ct. 1901), where the court said that stock in a New Jersey corporation is the proprietary right that a stockholder has in a corporation of the state, relating as it does to an anomalous species of intangible property that owes its existence solely to the laws of the State.

It is, therefore, inappropriate to speak of a contractual relationship between the stockholder and the corporation. The appellant contents itself with the suggestion that contracts are the basis of the right of stockholders, but makes no effort to cite authority for its assertion.

But even if a contractual relationship could be said to be established between the stockholder and the corporation, the appellant's argument falls, because escheat statutes do not violate the constitutional prohibition against impairment of the obligation of contracts.

In *Home Building & Loan Ass'n v. Blaisdell*, 290 U. S. 398, 435, 78 L. Ed. 413 (1933), it is said:

> "The question is not whether the legislative action affects the contracts incidentally or directly or indirectly, but whether the legislation is addressed to a legitimate end and the measures taken are reasonable and appropriate to that end."

In *The Philadelphia Electric Co. Case*, 352 Pa. 457, 43 A. 2d (1945), the court said:

> "A legislative provision for escheat is a valid exercise of the police power of the State. Nor do these statutes

serve to impair the obligation of contracts. The constitutional guarantee in such connection is likewise subject to an appropriate exercise of the State's police power."

In *McSweeney v. Equitable Trust Co.*, 16 N. J. M. 193, 198 A. 529 (Supreme Ct. 1938), the court said:

"The notion that the police power cannot be exercised in any field of activity if it in any slight degree affects or impairs contracts previously entered into between individuals is purely illusory.

"The sovereign right to safeguard the general welfare of the people and to promote the common weal is paramount to the contractual rights of individuals."

In other cases it is held that the contract contemplates the exercise of the sovereign power, and that there is incorporated in the contract the anticipation of this possible use. In *Brooklyn Borough Gas Co. vs. Bennett*, 277 N. Y. S. 203, 154 Misc. 106 (Supreme Ct. 1935), it is said:

"The original contract was made in contemplation of the exercise by the State of its police power, after a lapse of time indicating abandonment, to take over the property for its preservation."

In *Attoney General v. Provident Inst. for Savings*, 201 Mass. 23, 86 N. E. 912 (1909), it is said:

"The charter granted to the Institution for Savings *and the contract between the institution and its depositors* must be assumed to have been subject to the sovereign power of the state, through proper proceedings, to take possession of property that escheats to the Commonwealth, and hold it as its own * * *.

"The contract between the corporation and each depositor, by an implied condition, was to be subject to termination by the Commonwealth whenever conditions should arise that would justify the State in exercising this power to take the property into its care for the benefit of the persons entitled to it, and when the Commonwealth, in view of these conditions, should assert this power. There is nothing in the respondent's charter that limits the right of the Commonwealth in these particulars" (Italics ours).

In *Home Building & Loan Ass'n v. Blaisdell*, 290 U. S. 398, supra, it is said:

"Not only are existing laws read into contracts in order to fix obligations as between the parties, but the reservation of essential attributes of sovereignty is also read into contracts as a postulate of the legal order."

The reason is explained in *People, ex rel. v. Durham Realty Corp.*, 230 N. Y. 429 (1921), as follows:

"Either the rights of property and contracts must when necessary yield to the public convenience, advantage and welfare, or it must be found that the State has surrendered one of the attributes for which governments are founded."

The subject is reviewed in *East New York Savings Bank v. Hahn*, 326 U. S. 230, 232, 90 L. Ed. 34, 36 (1945), which says:

"The formal mode of reasoning by means of which this 'protective power of the State' is acknowledged is of little moment. *It may be treated as an implied condition of every contract*, and, as such, *as much part of*

the contract as though it were written into it, whereby the State's exercise of the power enforces, and does not impair, a contract.

"A more candid statement is to recognize, as was said in Manigault vs. Springs, 199 U. S. 473, 50 L. Ed. 274, that the power 'which in its various ramifications is known as the police power, is an exercise of the sovereign right of the Government to protect * * * the general welfare of the people, and is paramount to any rights under contracts between the individuals.' Once we are in this domain of the reserve power of a State we must respect 'the wide discretion on the part of the legislature in determining what is and what is not necessary.' So far as the constitutional issued is concerned, 'the power of the State, when otherwise justified', Marcus Brown Holding Co. vs. Feldman, 256 U. S. 170, 198, is not diminished because a private contract may be affected" (Italics ours).

In *Connecticut Mutual Life Ins. Co. v. Moore*, 333 U. S. 541, supra, the same question of impairment of contracts was raised. The companies in that case argued that the statute transformed into a liquidated obligation that which was previously only conditional, that it did away with the proof of certain facts which would have been required of the beneficiary, that it took away from the companies certain defenses and made it more difficult to establish other defenses. The court disregarded these assertions and said:

"We do not regard the statute as unconstitutional because of these enforced variations from the policy provisions."

The court there pointed out that unless the State was allowed to take possession of these moneys, the companies

would retain moneys contracted to be paid on condition which normally they would have been required to pay, and said:

> "The State may more properly be custodian and beneficiary of abandoned property than any person."

The judgment in escheat does not deprive the appellant of any property or of any right. Whatever rights the unknown owners had are, as declared by the judgment of escheat, vested in the State, but the appellant gives up nothing, nor are its obligations increased. The judgment of escheat merely substitutes the State for the unknown owners, and, at the same time, discharges the appellant from any further liability to the former owners. Section 10 of the escheat statute (Appendix to Appellant's Brief, 5a) provides that the decree in escheat shall automatically operate as a full, absolute and unconditional release and discharge of the appellant from any and all claim, demand or liability to any person other than the State Treasurer with respect to such property, and that the decree in escheat may be pleaded as an absolute bar to any action brought against the appellant with respect to such property by any person other than the State Treasurer.

The appellant argues that the substitution of the State for the unknown owners does not discharge the appellant's obligations to the unknown owners. It, therefore, contends that if the statute is unconstitutional as to the unknown owners, the latter will still have their remedy against the appellant, enforceable either in New Jersey or in any other jurisdiction where the appellant is suable, and it may, therefore, be twice subject to the same obligations.

The provisions of the statute are expressly severable, and by this severable provision relieving the appellant of

any obligation and impliedly making the State, as the taker of the property, liable, means that the appellant could not be sued in New Jersey. Since it cannot be sued in New Jersey on the same obligation, it cannot be sued anywhere. It is protected in this regard not only by the principles of jurisdiction, but by the full faith and credit clause of the Federal Constitution.

Article IV, Sec. 1, of the Federal Constitution provides:

> "Full faith and credit shall be given in each State to the public Acts, Records and Judicial Proceedings of every other State."

The Act of Congress approved May 26, 1790, c. 11, 28 U. S. C. 687, provides for the authentication of the acts of the legislature of a State, and of the judicial proceedings of its courts.

In *Williams v. North Carolina*, 317 U. S. 287, 293, 87 L. Ed. 279, 283 (1942), it is declared that the full faith and credit clause and the Act of Congress require that the judgment of a state court shall have the same credit, validity and effect in every other court in the United States as such judgment would have in the state where it was pronounced, and that whatever pleas would be good in a suit on such judgment, and only such pleas, could be pleaded in such other court.

As has been set forth above, the proceedings in escheat are, as to the unknown owners, in the nature of proceedings in rem, and the judgment in escheat operates only upon the res. Therefore, aside from the full faith and credit clause, the judgment of the court below is conclusive.

It is made plain in *Security Savings Bank v. California*, 263 U. S. 282, supra, that seizure of the res is effected by the personal service upon the defendant, and thereby the res

is subjected to the jurisdiction of the court. Having jurisdiction in rem, the judgment of the court is conclusive. As said in *Williams v. Armroyd*, 7 Cranch (11 U. S.) 423, 432, 3 L. Ed. 392, 395 (1813):

> "The sentence of a competent court, proceeding in rem, is conclusive with respect to the thing itself, and operates as an absolute change of the property. By such sentence, the right of the former owner is lost, and a complete title given to the person who claims under the decree. No court of co-ordinate jurisdiction can examine the sentence."

In *Canada Southern R. R. Co. v. Gebhard*, 109 U. S. 527, 538, 27 L. Ed. 1020, 1024 (1883), the court said:

> "Anything done at the legal home of the corporation, under the authority of such laws (the laws of the State of incorporation), which discharges it from liability there, discharges it everywhere."

In *Isaacs v. Hobbs*, 282 U. S. 734, 75 L. Ed. 645 (1930), the court said:

> "The court originally acquiring jurisdiction is competent to hear and determine all questions respecting title, possession and control of the property."

In escheat proceedings, the result is the same. In *Anderson National Bank v. Luckett*, 321 U. S. 233, 242, 88 L. Ed. 692, 702, the court stated:

> "Since the bank is the debtor to its depositors, it can interpose no due process or contract clause objection to payment of the claimed deposits to the State, if the State is lawfully entitled to demand payment, for in

that case *payment of the debt to the State, under the statute, relieves the bank of the liability to its depositors.*" (Italics ours.)

The same objection, when raised in *Reading Company Case*, 352 Pa. 457, 43 A. 2d 116 (1945), was dismissed by the court, which said there was no danger that the defendant there would be subjected to double liability.

IV. Shares of capital stock of a New Jersey Corporation and dividends on such shares of stock are subject to escheat to the State of New Jersey.

The appellant asserts that neither the dividends on shares of its capital stock nor the shares of capital stock escheated by the judgment had a situs in New Jersey for the purpose of escheat.

The determination of situs of, or the control which the State of New Jersey has over, the shares of stock and dividends is not a question involving constitutionality, but is a question of fact. The court of last resort of New Jersey having determined the fact, there is nothing for this Court to review on this question.

In *Portland R. L. & P. Co. v. Railroad Commission*, 229 U. S. 397, 412, 57 L. Ed. 1248, 1258 (1913), it is said:

"Ordinarily, in cases which come before us for review, this court accepts the facts as found by the State Supreme Court. An examination of the record in this case convinces us that the conclusions reached by the court do not bring the case within that exceptional class where this court will reexamine the facts found, with a view to ascertaining the correctness of the con-

clusions reached * * * This court does not sit to retry issues of fact thus heard and determined by the properly constituted tribunals of the state having jurisdiction of the subject."

In *Grayson v. Harris*, 267 U. S. 352, 358, 69 L. Ed. 652, 656 (1924), the appellant argued that the evidence failed to show that the plaintiffs in error were Greek citizens. This court said that since the trial court found they were, and the state supreme court expressly affirmed the finding, the finding of fact would not be considered, because that finding was not so intermingled with the conclusion of law in respect of the federal right as to cause it necessary to consider the matter of fact in order to pass upon the federal question. This court said (page 358):

> "In other words, the finding simply established a condition, not as a basis upon which to rest a decision of the question of Federal right one way or the other, but upon which that question became an issue for consideration and determination. In such case, the ordinary rule applies that the decision of the state court upon a question of fact cannot be made the subject of inquiry here."

In the present case also, the effect of the finding of situs and control over the shares and dividends simply established a condition, not as a basis upon which to rest a decision of the question of federal right one way or the other, but upon which that question became an issue for consideration and determination. As in the Grayson case, so here, the ordinary rule applies.

However, authorities are not wanting to establish the correctness of the determination of the state court.

It has long been recognized that the situs of shares of

stock in a corporation is in the State in which the corporation was chartered, and that such shares of stock constitute property within the said State. The principle was thus stated in *Neilson vs. Russell*, 76 N. J. L. 40, 69 A. 476 (Supreme Ct. 1901):

> *"Stock in a New Jersey Corporation*, i. e., the proprietary right that a stockholder has in a corporation of this State, relating as such proprietary right does to an anomalous species of intangible property that owes its existence solely to the laws of this State, *is itself property within the State in the sense that it has an inherent and abiding situs here for all matters appertaining to sovereignty"* (Italics ours).

In *Greves vs. Shaw*, 173 Mass. 205, 53 N. E. 372 (Supreme Judicial Ct. 1898), the court said:

> "There can be no room for doubt that stock in a corporation organized under the laws of the Commonwealth is property within the jurisdiction of the Commonwealth."

Tax Commission vs. Aldrich, 316 U. S. 174, 86 L. Ed. 1358. 1370 (1942) explains why this is so, saying:

> "The corporation owes its existence to Utah. Utah defines the nature and extent of the shareholders' interest in the corporation. Utah law affords protection for these rights. Utah has power over the transfer by the corporation of its shares of stock."

The rights to dividends on the capital stock of a corporation are likewise defined by the law of the State of incorporation. In *Lick vs. U. S. Rubber Co.*, 39 F. Supp. 675 (D. C. N. J. 1941), in which were involved the rights to dividends

as between preferred and common stockholders, the court said:

> "It is conceded that the rights of stockholders, both common and preferred, are dependent upon, and must be determined under, the laws of the corporate domicile." Affirmed, 123 F. 2d 145 (C. A. 3, 1941).

In 18 *C. J. S.* 1104, Title "Corporations", Sec. 463, it is stated:

> "The law of the corporate domicile controls as to the declaration of dividends."

The State of New Jersey, like many other states, has provided that a corporation created by it shall not pay dividends except from surplus or from the net profits of its business. L. 1896, ch. 135, Sec. 30, p. 286, as amended L. 1930, ch. 120, Sec. 1, p. 376, N. J. S. A. 14:8-19.

The shareholders owe their right to dividends to the state law, just as do the shares of stock, and the dividends are likewise property within the state for all matters appertaining to sovereignty.

Even if shares of stock and dividends thereon be treated, for the purpose of situs, like other obligations of the corporation, it must also be concluded that their situs is in the state of incorporation.

The appellant, a corporation created under the laws of the State of New Jersey, has its domicile in New Jersey. *Southern Railroad Co. vs. Allison*, 190 U. S. 326, 47 L. Ed. 1079 (1902); *Newark Fire Insurance Co. vs. State Board*, 307 U. S. 313, 83 L. Ed. 1312 (1938). Its debts and obligations therefore have their situs in New Jersey.

Situs is essentially a question of fact, and much confusion may and does arise by attempting analogies. The criteria

for determination of tangible property may not constitute criteria for determining the situs of intangible property, which can have no actual situs anywhere in the sense that real or tangible chattels have.

A clear exposition of the principle as to situs of intangibles is given in 31 Harvard Law Review 905, wherein it is said:

> "Jurisdiction over tangible property is dependent upon the physical presence of the property, for it is at such place that the power of control exists. But the important thing to observe is, that it is the power of control that is the basis of jurisdiction, and not location, and it is this power of control which gives whatever significance there is to the legal concept 'situs'.
>
> 907. "Where the property is intangible, however, the element of location is absent, but power of control may still exist and constitute the basis of jurisdiction. The failure to observe that it is this element of control, and not the quality of occupying space, that gives 'situs' its significance, has led to the greatest confusion in the decisions relating to jurisdiction over intangible property in the form of debts * * *"

The situs in New Jersey of shares of stock in a New Jersey corporation and the dividends declared thereon, is not affected by the fact that the owners do not reside within the State. As said in *Neilson vs. Russell*, 76 N. J. L. 40, supra:

> "Such proprietary right, although it is personal property as regards the act of its owner, is from its nature and because of its inherent situs unaffected as regards the acts of the sovereign by the circumstance that the domicile of its former owner was elsewhere than in this State. In fine, we think that the sovereign power to which a corporation owes its existence can never

be wholly detached from it, and is not estranged from its creature by the circumstance that the owners of the shares of stock thus created reside in one place rather than in another."

To the same effect is *Pennington vs. Fourth National Bank*, 243 U. S. 269, 61 L. Ed. 713 (1917), which states:

"The Fourteenth Amendment did not, in granting due process of law, abridge the jurisdiction which a State possessed over property within its borders, regardless of the residence or non-residence of the owner. That jurisdiction extends alike to tangible and to intangible property. Indebtedness from a resident to a non-resident—of which bank deposits are an example—is property within the State."

In *Corry vs. Baltimore*, 196 U. S. 466, 49 L. Ed. 556 (1905), the court said:

"The sovereignty which creates a corporation has the incidental power to impose reasonable regulations concerning the ownership of stock therein; and a regulation establishing the situs of stock for the purpose of taxation and compelling the corporation to pay the tax on behalf of the corporation is not unreasonable regulation.

"Applying that principle, it follows that a regulation of that character, prescribed by a state, is not an exercise of the taxing power of the state over persons and things not subject to its jurisdiction."

In *Schuylkill Trust Co. vs. Pennsylvania*, 302 U. S. 506, 82 L. Ed. 392 (1938), the court considered the effect of non-residence of intangibles upon the jurisdiction of a state over such intangibles, and said:

"We think these differences are unimportant in respect to the principles involved."

The principle has been applied in escheat cases. In *Security Savings Bank vs. California*, 263 U. S. 282, 63 L. Ed. 301 (1926), the court sustained a California statute providing for escheat of deposits in California banks, not only as to deposits of residents, but to those of non-residents as well.

The latter case was followed in *Philadelphia Electric Company Case*, 352 Pa. 457 (Supreme Ct. 1945), which said:

"The power of the legislature to render property of this kind (including shares of stock of the appellant therein, a Pennsylvania corporation, and dividends on its stock) subject to escheat in favor of this Commonwealth is clear * * *.

"The Supreme Court of the United States has confirmed the jurisdiction of a State court over intangibles and its power to subject them to escheat even as against possible non-residents."

In re Hull Copper Co., 46 Ariz. 270, 50 P. 2d 560 (Supreme Ct. 1935), a similar statute was sustained. The court there said:

"It is not obnoxious to any provision of the Federal Constitution, for it applies only to corporations incorporated under the laws of Arizona, and we think that so far as such corporations are concerned, it clearly lies within the power of the State to regulate the disposition of any unclaimed shares and dividends thereof."

See also *In re Montello Salt Co.*, 88 Utah 283, 53 P. 2d 727 (Supreme Ct. 1936).

The appellant seeks to distinguish the instant case from other cases in which this Court has affirmed the power of the State to escheat intangible property. It cites *Security Savings Bank vs. State of California*, 263 U. S. 282; *Anderson National Bank vs. Luckett*, 321 U. S. 233, and *Connecticut Mutual Life Ins. Co. vs. Moore*, 333 U. S. 541, in all of which the State was held to have power to escheat intangibles over which it had dominion. The ultimate fact was the same in those cases as in the present case, that the State had control or dominion over the intangibles. Because the State in each of those cases had such control or dominion of the intangibles, the property was held to be subject to escheat. In the instant case the appellant is a New Jersey corporation; and the State has complete dominion over it. *Newark Fire Insurance Co. vs. State Board*, 307 U. S. 313, 83 L. Ed. 1312. The State therefore has power or dominion or control over the corporation's shares and dividends comprising the intangibles here. Having such power or dominion or control, it has the power of escheat of such intangibles.

The appellant argues that the certificate of stock is the property here involved, and that since it does not have possession of the certificate, there could be no seizure of the property involved. That position was rejected long ago in *Jellenik v. Huron Copper Mining Company*, 177 U. S. 1, 13, 44 L. Ed. 647, 651 (1899), wherein it was said:

> "As the habitation or domicile of the company is and must be in the state that created it, the property represented by the certificates of stock may be deemed to be held by the company within the state whose creature it is, whenever it is sought by suit to determine who the real owner is. This principle is not affected by the fact that the defendant is authorized by the laws of

Michigan to have an office in another state, at which a book showing the transfers of stock may be kept."

The appellant seeks to escape from the impact of the above case by pointing out that the State of New Jersey adopted the Uniform Stock Transfer Act, and interprets that act to provide that the certificate of stock is the property, rather than the stockholder's muniment of title. The decision of the Supreme Court of New Jersey in the present case, however, forecloses any question as to the effect of the Uniform Stock Transfer Act. This court will not review the interpretation of a statute by the court of last resort of the State enacting such statute.

Finally, the appellant argues that corporate shares may have a situs in two places, and it seeks thereby to debar the escheat of the property by the State of New Jersey. In this argument the appellant discloses its real purpose. If it can defeat escheat by the State of New Jersey of the shares of stock and dividends on the ground that though situs may be in New Jersey, it has another situs elsewhere, it can also defeat the escheat in the other jurisdiction by pointing to the situs in New Jersey. By this shifting of positions, the appellant would, if it were successful, establish a right superior to the sovereign which created it, and superior to any other sovereign. This would be unthinkable.

CONCLUSION.

The enactment of the escheat statute by the legislature of New Jersey was the wise and sound exercise of a power within the province of the state and inherent in its sovereignty. The legislature did not create the power, but did prescribe the terms and conditions under which it should operate. Neither the due process clause nor the contract clause of the Federal Constitution was intended to shackle or encircle the state in the assertion and performance of its governmental functions. The judicial procedure provided by the escheat statute, including notice of the proceedings and opportunity to be heard, do not offend these constitutional limitations.

The appellant states that the decision of this case will govern more than one hundred cases now pending in the New Jersey courts. It is also true that the decision in this case will govern the exercise of the escheat power in the forty-eight states. The appellant's position would benefit corporations chartered by the forty-eight states, and would deny to the states the benefits which their creatures would enjoy. The law must not be astute to accomplish this result.

To deny to the states the power to escheat intangible personal property such as corporate shares and dividends would, as a practical matter, have but one effect. The corporation would be empowered to enrich itself by obtaining the property of its former stockholders to which it has no justifiable right, in derogation of the sovereign power of the state to which it owes its existence, and to which, under other circumstances, it appeals for protection.

The proposition has only to be stated to be rejected as legally and morally inadmissible.

It is submitted that the judgment of the court below should be affirmed.

Respectfully submitted,

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Appendix

Statutes providing for escheat of personal property upon death of the owner intestate and leaving no heirs, next of kin, or surviving spouse.

Alabama—Statutes, Title 16, Chapter 2, "Escheats". Sec. 25.
Alaska—Code of Civil Procedure, Chapter 8, Title "Escheats", Sec. 57-8-1.

California—Political Code, Part 1, Title 1, Chapter IV, Sec. 41.

Delaware—Code of 1915.

Georgia—Code Annotated, Chapter 85-11.

Illinois—Laws—Probate & Distribution, Sec. 110-258.
Indiana—Laws, Sec. 6-2349.
Iowa—Laws, Sec. 636.50.

Maine—Revised Statutes, Chapter 156, Sec. 1, VIII, Sec. 20.
Massachusetts—Act of June 25, 1936, P. L. 428, Laws, Chapter 190, Sec. 2.
Montana—Sec. 91.502.

Nebraska—Laws, Chapter 30, Art. 1, Sec. 102, Sec. 30-103.
Nevada—Compiled Laws, Sec. 9882.311.
New Hampshire—(Uses word accrue, instead of escheat).
New Mexico—Chapter 31, Sec. 31-121.

Minnesota—Statutes Annotated, Probate Code, Ch. 525-16.
Mississippi—Code of 1942, Chapter 2, Sec. 480.
Missouri—Revised Statutes, Ch. 3, Art. 1, Sec. 620.

North Dakota—Title 30, Sec. 25.

Ohio—Page's General Laws, Sec. 10503-4.

Oklahoma—Compiled Laws, Annotated, Sec. 21-101.

South Carolina—Code of 1942, Vol. 4, Title 40, Ch. 172, Art. 2, Sec. 8854.

South Dakota—Code of 1939, Title "Escheats", Chapter 37-42.

Vermont—Revision of 1947, Chapter 147, "Escheats", Sec. 3055.

West Virginia—Code of 1949, Sec. 3599.

The states named below provide for escheat of personal property upon death of the owners, intestate and without leaving anyone to inherit, but provide also for escheat of property of absentees without proof of death, but upon abandonment, etc.

Arkansas—Act of 1949, Sec. 50-604,

> Where property has been unclaimed, forgotten or lost by any person, including a former owner for seven years, a presumption arises that such property is subject to escheat as abandoned property.

Arizona—Code, Article 11, Title "Escheat", Sec. 27-101,

> If any person shall be absent for seven years, and is not known to exist, such estate shall escheat to and vest in the state.

California—Political Code, Part 1, Title 1, Chapter IV, Sec. 4,

> All property, real and personal, within the limits of the state, which does not belong to any person, belongs to the state.
>
> Part 3, Title 1, Ch. 3.

Requires the attorney general to institute general investigation for discovery of all real and personal property which should escheat to the state.

Connecticut—Revision of 1949, Sec. 149,

Any property, the owner of which has not exercised any right of ownership or possession thereof or claim thereto for seven years and the whereabouts of such owner being unknown to the person having custody or possession thereof, shall escheat to the state.

Florida—Laws of 1947, c. 24333, Sec. 1,

Provides for escheat of moneys deposited in registry of federal courts in Florida unclaimed for seven years.

Kansas—Sec. 58-401,

Provides for escheat of moneys or property in custody of court and unclaimed for two years after final determination of action.

Kentucky—Revised Statutes of 1942, Title "Escheats", Sec. 393.090,

All dividends, stocks, bonds, money, credits and claims, and all intangible property held in this state by any person for the benefit of another shall be presumed abandoned unless claimed by the beneficiary within ten years from the time the holder, trustee, debtor or other person became obligated to return them to the proper owner or claimant.

Minnesota—Statutes Annotated, Probate Code, Ch. 48.522,

When any person abandons any funds or other property with any banking institution, the same shall escheat to the state.

Missouri—Revised Statutes, Ch. 3, Art. 1, Sec. 620,

After the owner entitled to any moneys, refunds of

rates or premiums, or by reason of any litigation concerning rates, refunds, fares, or charges collected by any person or corporation in the State of Missouri, paid into any court of Missouri, shall be and remain unknown or the whereabouts of the owner are unknown, or the moneys are unclaimed for five years, such moneys shall be escheatable to the state.

New York—McKinney's Consolidated Laws of New York, Vol. 2½A, Abandoned Property, Sec. 1200.

All moneys or other property paid into or deposited in custody or under control of a court of the United States in New York unclaimed for statutory period are declared to be escheated to state.

North Carolina—Sec. 116-25,

Unpaid and unclaimed salary, wages or other compensation due to any person from any person or corporation engaged in construction work in North Carolina are declared escheated.

Oregon—Compiled Laws Annotated, Sec. 21-201,

Unclaimed back deposits are to be treated like property of estates which have escheated.

Pennsylvania—Act of June 7, 1915, P. L. 878. Sec. 7, as amended, 27 P. S. 282,

After the owner entitled to any of the following moneys or property shall be and remain unknown or the whereabouts thereof shall have been unknown for seven years, such moneys or property shall be escheatable to the Commonwealth.

Tennessee—William's Tennessee Code Vol. 5—Title II, Chapter 10, "Escheats",

Provides for escheat of moneys deposited in custody of federal court and unclaimed.

Texas—Vernon's Civil Statutes, Sec. 3272,

Where the owner of any real or personal property is absent for seven years and is not known to exist, leaving no heirs or devisees, such estate shall escheat to the state.

Utah—Code, Sec. 7-2-17,

All deposits and dividends (of banks which are liquidated) for which no claim has been made for five years after order of final distribution, shall escheat to the state.

Washington—Remington's Revised Statutes, Sec. 1715-1,

Provides for administration of estates of absentees, including real and personal property.

Sec. 1715-10,

"Whenever the owner of such property * * * shall have been absent and unheard from for fifteen years, and no heirs have appeared and no will of the absentee has been presented * * * the property shall be escheated * * *"

Wyoming—Compiled Statutes, Sec. 22.203,

All property, real and personal, within the limits of this State, which does not belong to any person, shall belong to the State.

New Jersey—Laws 1946, c. 155, as amended Laws 1947, c. 357,

Whenever the owner of or person entitled to any property has been or shall be unknown for 14 years, or his whereabouts unknown for 14 years, or whenever any personal property shall remain unclaimed for 14 years, such personal property shall escheat to the State.